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Initial reports of States parties

BELGIUM

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INTRODUCTION

Belgium has ratified the Convention on the Elimination of All Forms of Discrimination against Women on 10 July 1985. It became a party to the Convention on 9 August 1985.

At the national level, the Convention has been approved by the Belgian law of 11 May 1983.

At the Community level, the Convention has been approved by decrees enacted by the councils of the three different communities of the country:

- decree of 30 March 1983 for the French-speaking community
- decree of 5 March 1985 for the Flemish-speaking community
- decree of 25 June 1985 for the German-speaking community.

On ratifying the Convention, Belgium made the following two reservations:

"Article 7:

The application of article 7 shall not affect the validity of such constitutional provisions as those contained in article 60, which reserve to men the exercise of Royal powers and by article 58, which reserve to the sons of the King or, failing them, to Belgian princes of the branch of the Royal Family called upon to reign, the office of ex officio Senator at the age of 18 with the right to vote at the age of 25.

"Article 15, paragraphs 2 and 3:

The application of article 15, paragraphs 2 and 3, shall not affect the validity of the transitory provisions enacted in favour of spouses married before the entry into force of the law of 14 July 1976 relating to the reciprocal rights and duties of spouses and their matrimonial property systems, when the spouses have exercised the option granted to them by that law to make a declaration maintaining in its totality their pre-existing matrimonial property system."

However, notwithstanding those reservations which we shall examine below, Belgium, by ratifying the Convention, has undertaken to guarantee equal rights to men and women in the political, economic, social, cultural and civil fields, as well as in all other fields, and to repeal all legislative provisions or regulations, customs or practices embodying a direct or indirect discrimination against women. It should, however, be pointed out that Belgium was already applying the general rule of the Convention well before ratifying it and that the provisions of internal law then in force did not require much amendment following the entry into force of the Convention. This was due to the Belgian legislative system, where international law prevails over national law: in many other fields covered by the Convention, there were a large number of international instruments - United Nations Conventions, International Labour

Conventions, Council of Europe Conventions, or directives of the European Economic Community - which had already almost completely eliminated discrimination against women in the country.

The reference here is of course to equality in the eyes of the law. The report which follows will also make it possible to measure the distance which sometimes separates the texts of the law with the facts of real life. Lastly, it should also be noted that, by adopting at Nairobi in 1985 the "Strategies for the Year 2000", Belgium has acquired a very useful instrument for putting into practice the principles of equality between men and women.

I. GENERAL PROVISIONS GUARANTEEING EQUALITY BETWEEN WOMEN AND MEN AND PROHIBITING DISCRIMINATION BASED ON SEX

Articles 1 to 6 of the Convention

The present chapter is intended to give an overall view of the manner in which the equality between men and women is guaranteed and implemented in Belgium. As will be seen below, with a few exceptions - relating chiefly to social security measures - the equality between men and women has been achieved in our country on the legal plane.

1. Legal framework

The principle of equality of all Belgians before the law has been enshrined since 1831 in article 6 of the Constitution.

> "There shall be no class discinctions in the State. All Belgians shall be equal before the law and shall alone be eligible for civil and military office, with the exceptions which may be specified by law for special cases."

These provisions have been supplemented on 24 December 1970 by article 6 bis, which provides as follows:

> "The enjoyment of all rights and liberties granted to Belgians shall be assured without discrimination. To that end, the rights and freedoms of ideological and philosophical minorities shall be guaranteed by law and decree."

Both the supreme Court of the judiciary or Cour de Cassation (Cass. 2.5.1973, Pasicrisie 1973, I, 808) and the highest administrative court or Conseil d'Etat (C.E., 15.3, 1974, R.A.C.E., 1974, pages 266 and 268) have consistently ruled that the foregoing constitutional provisions prohibit all discrimination based on sex.

It was for this reason that in 1978, on the occasion of the declaration concerning the revision of the Constitution, the views put forward by the Commission on the Status of Women of the Ministry of Foreign Affairs were not accepted. That Commission suggested a revision of articles 6 and 6 bis of the Constitution which would introduce an express reference to the equality obetween men and women. This request was rejected following a statement by the Minister of Justice (meeting of 14 November 1978) to the following effect:

> "Article 6 of the Constitution forbids all discrimination as between Belgians and unquestionably also as between men and women ... Article 6 bis, which has been introduced later into the Constitution, makes any further amendment superfluous."

There remains, however, a discrimination against women of the Belgian Royal Family, who are excluded from the exercise of Royal powers. In accordance with article 60 of the Constitution, men alone can inherit the Belgian throne in the order of the first born. Because of that constitutional provision, Belgium, on ratifying the Convention on the Elimination of All Forms of Discrimination against Women, found it necessary to make the following reservation to article 7 of the Convention:

> "The application of article 7 shall not affect the validity of such constitutional provisions as those contained in article 60, which reserve to men the exercise of Royal powers and by article 58, which reserve to the sons of the King or, failing them, to Belgian princes of the branch of the Royal Family called upon to reign, the office of ex officio Senator at the age of 18 with the right to vote at the age of 25."

It must also be stressed that, under the Belgian legal system, international law prevails over national law. Now, Belgium has ratified numerous international instruments which guarantee to Belgian citizens, without any distinction as to sex, the enjoyment of fundamental rights and freedoms: equality in the exercise of political rights, equality in the field of employment, remuneration and social security, etc. ... Moreover, as a member of the European Economic Community, Belgium applies directly the directives emanating from that Community.

Conventions of the United Nations which have been ratified by Belgium

- Convention on the political rights of women (1964)
- International Covenant on Economic, Social and Cultural Rights (1983)
- International Covement on Civil and Political Rights (1983)
- ILO Convention No. 100 on equality of remuneration (1953)
- ILO Convention No. 111 concerning discrimination in the matter of employment and occupation (1978)

Convention of the Council of Europe

European Convention for the Protection of Human Rights and Fundamental Freedoms (1955)

Instruments of the European Economic Community

Article 119 of the Treaty of Rome (1957)
Directive 75-117 on equality of remuneration (1975)
Directive 76/207 on equality of treatment (1976)
Directive 79/7 on equality in matters of social security (1979)
Directive 86/378 on equality of treatment between men and women in occupational social security schemes (24.7.1986)
Directive 86/613 on equality of treatment between men and women engaged in an independent activity, including agriculture, and on the protection of motherhood (11.12.1986)

2. Measures taken (including legislative measures) to amend or repeal all discriminatory legislative provisions or regulations, customs and practices

2.1 Legislative measures

2.1.1 Equality in civil law

2.1.1.1 Equality of the spouses and legal capacity of married women

Under the 1804 Civil Code, an almost complete legal incapacity attached to married women. In 1832, the law on the rights and duties of spouses placed some limitations upon the powers of the husband and gave women who carried on a professional activity the right to administer themselves the proceeds therefrom. It was only with the law of 30 April 1958 on the reciprocal rights and duties of spouses, however, that marital authority and the incapacity of married women were abolished.

In accordance with that law, however, it was only women married under the system of separate property who were endowed with the same rights as their husbands with regard to their own property. Actually, it was only with the law of 14 July 1976 relating to the respective rights and duties of spouses and to matrimonial property systems that Belgian women were granted the same rights and duties as men. In accordance with that law, both spouses have identical rights and duties in respect both to their personal and to their property relations, regardless of the system of matrimonial property selected by them. No derogation by agreement is permitted to this principle of equality, which is a matter of public policy.

2.1.1.2 Equality of the two parents

The father's authority over his children, inherited from Roman law, was exercised practically without limitation until 1965. The recognition of the equality of spouses in 1958 was bound to lead to that of the equality of parents. Accordingly, the law of 8 April 1965 on the protection of young persons replaced paternal authority by parental authority. Henceforth, father and mother have exercised jointly their powers over their children; in the event of disagreement between the parents, the father's decision prevailed but the mother could file an objection before Juvenile Court. Subsequently, the law of 1 July 1974 eliminated the predominance of the father. There is thus at present complete equality between the two parents: parental authority is exercised by each and both of them. If one of the parents considers that a decision taken by the other is at variance with the interests of the child, he or she may bring the matter before the Juvenile Court.

2.1.1.3 Equality of the spouses in the event of divorce

The law of 28 October 1974 abolished all discrimination with respect to the grounds for divorce. An isolated act of adultery, regardless of the place of commission or of who is the guilty party, constitutes grounds of divorce for the other spouse.

2.1.1.4 Equality of the spouses on the death of one of them

The law of 14 May 1981 on the rights of the surviving spouse lays down rules for the succession of the deceased spouse without any discrimination as to sex. It should be pointed out that the new rights granted to the surviving spouse are mainly of benefit to widows, whose number is greater than that of widowers in Belgium.

2.1.1.5 Equality of the two parents regarding the declaration of births

The law of 13 March 1984 specifies that the duty to declare the birth of a child rests also upon the mother; the time limit for that declaration (which used to be three days) has been extended to 15 days, so as to enable the mother to make the declaration herself to the Civil Registry.

2.1.2 Equality in respect of nationality legislation

The new Nationality Code is embodied in the law of 28 June 1984. Under this Code, marriage has no longer any effect on the nationality of the spouses. The Code has also done away with the differences which previously existed between men and women with regard to the modes of loss or acquisition of nationality. Moreover, it abolished all discrimination with regard to the transmission of Belgian nationality by the mother.

2.1.3 Equality in criminal law

Since the adoption of the law of 28 October 1974, Belgian criminal law no longer contains any provisions which could constitute discrimination against women. The law in question abolished the distinction previously made by the 1967 Code between adultery by the husband and adultery by the wife: maintaining a concubine is no longer a criminal offence and adultery becomes the same crime regardless of the spouse committing it: proof of adultery is subject to the same conditions in both cases and the penalties applicable are the same.

2.1.4 Equality in labour law

The whole subject has been completely overhauled as a result of the application of article 119 of the Treaty of Rome and of the directives of the European Economic Community, which are self-executing in Belgium.

2.1.4.1. Equality of remuneration

Implementation of article 119 and of Directive 75/117 of 10.2.1975 on the harmonization of the legislations of member States relating to the application of the principle of the equality of remuneration between men and women workers (annex 1 - basic documentation, pages 5-9)

- Royal Ordinance of 22.7.64 (replaced by Royal Ordinance of 29.6.73) on the financial status of the staff of the various ministries.
- Article 14 of the Royal Ordinance No. 40 of 24.10.67 on women workers introduced by the law of 16.3.71 as article 47 bis into the law of 12.4.65 relating to the protection of the remuneration of workers.
- Royal Ordinance of 9.12.75 giving compulsory effect in the private sector to Collective Contract of work No. 25 concluded on 5.10.75 in the National Council of Labour and relating to the equality of remuneration between men and women workers (annex 1 - basic documentation, pages 26 to 37).
- Law of 4.8.78 on economic reorientation, title V of which relates to equality of treatment between men and women, in particular in respect of working conditions, including remuneration (Annex 1 - basic documentation, pages 38 to 64).
- Royal Ordinance of 10.9.81 amending Royal Ordinance of 30.1.67 granting a housing allowance to the staff of the ministries.

2.1.4.2 Equality of treatment in respect of employment

Implementation of Directive 76 207 of 9.2.1976 relating to the application of the principle of equality of treatment between men and women with regard to access to employment and to vocational training and promotion as well as with regard to working conditions (annex 1 basic documentation, pages 10 to 18) Law of 4.8.78. Title V on the equality of treatment between men and women with regard to working conditions and access to employment, to vocational training and promotion, as well as access to an independent occupation.

Measures adopted to implement Title V:

- Royal Ordinance of 27.11.78 (civil servants and officials entrusted with supervising the implementation of Title V).
- Royal Ordinance of 8.2.79 (cases in which sex may be mentioned in the conditions of access to an employment).
- Royal Ordinance of 6.8.81 (conditions of access to certain posts).
- Royal Ordinance of 8.1.80 and 27.2.81 (paid holidays for salaried workers).
- Royal Ordinance of 16.81 (definition of the concepts of vocational guidance and training mentioned in article 124).
- Royal Ordinance of 17.2.81 (pursuant to article 135).
- Royal Ordinance formulated by the departments of national education (public sector, school vocational training) of 29.6.83.
- Royal Ordinance of 27 July 1981 (holidays for the education of a child).
- Collective Contract No. 38 of 6.12.1983 (recruitment and selection of workers).
- Royal Ordinance of 17.2.1981 relating to the commissions entrusted with advising the competent courts (private sector).

- Royal Ordinance of 2.3.1984: Commission on disputes between men and women in the civil service, amended by Royal Ordinance of 9.1.85.

2.1.5 Equality of treatment in respect of social security

Implementation of Directive 79/7 of 19.12.1978 relating to the progressive implementation of the principle of equal treatment for men and women in matters of social security.

2.1.5.1 Sickness and invalidity insurance

- Royal Ordinance of 16 May 1980: dependent persons.
- Royal Ordinance of 23 October 1981: periods relating to health benefits and compensation for disability.
- Royal Ordinance of 31 December 1983: holidays for the education of a child.

- Law of 1 August 1985 containing social provisions.

2.1.5.2 Measures relating to unemployment

Royal Ordinanceof 12.04.1983 abolished a discrimination against men.

Under this provision, the reference period may be extended not only for the father but also for the mother who has suspended (or reduced by at least one half) her work in order to bring up a child. Previously, this provision only applied to a working mother.

- Royal Ordinance of 8.8.1986 amending the method of computing unemployment benefits (article 124, 156, 160 and 160 bis of Royal Ordinance of 20.12.1963).

- Ministerial Order of 11 August 1986 amending chapter VIII bis of Ministerial Order of 4 June 1964 relating to unemployment.

2.1.5.3 Pensions

The law of 15 May 1984 settled the problem of the pension for a married couple (formerly existing only for men) and that of survivors' pension (which previously applied only to women).

The consolidating law of 10.2.81 abolished the pre-existing discrimination between single men and single women with regard to the amount of the minimum pension.

Royal Ordinance No. 410 of 18 April 1986 amended the law of 11 July 1973. Henceforth, a working father may incorporate as pensionable the periods during which he has brought up his children up to the age of three (six if they are handicapped) on condition that the contributions are paid. Formerly, only working mothers had this faculty.

2.1.5.4 Family allowances

(a) The purpose of the law of 30 June 1981 was to adapt the system of family allowances for salaried workers to the reduction of the duration of work and to the conditions of part-time work. This law repealed the former article 42 bis of the co-ordinated laws relating to family allowance for salaried workers. The special provisions relating to family allowances for working mothers heads of family who work half-time has thus been repealed. At the same time, article 42 of the same laws was extended so that lump sum allowances were granted to part-time workers - whether men or women - who could attest to 16 days or 80 hours at least of work per month.

(b) The Royal Ordinance No. 122 of 30 December 1982 amended the order of priority for granting family allowances, so that a mother now has priority over a stepfather.

(c) Royal Ordinance No. 207 of 13 September 1983 established equality in respect of the capitation contributions due by male and female salaried workers.

(d) The law of 14 June 1985 broadened the scope of article 62, paragraph 3, of the consolidated laws relating to family allowance for salaried workers in such a manner that "an unmarried child" (whether daughter or son) who is not engaged in any other activity than that relating to household duties in a one-parent family (whether mother or father) either carries on a professional activity or is in the absolute impossibility of taking care of household duties.

(e) Article 26 of the law of 1 August 1985 amended article 55 of the consolidated laws relating to family allowances for salaried workers in such a manner that the husband or wife abandoned by his or her spouse and thereby is no longer entitled to family allowances will nevertheless receive them:

- in respect of children brought up by him or her and forming part of the household at the time of desertion;
- in respect of children of the couple brought up by him or her and born within six months of desertion.

2.1.5.5 Annual paid holidays

The Royal Ordinance of 08.01.1980 abolished the previous discrimination between men and women in respect of the notional daily remuneraion relating to non-working days assimilated to working days. This Royal Ordinance, however, was limited to holiday pay relating to 1980.

The Royal Ordinance of 27.02.1981 contained a simlar provision which was applicable "for the first time" for holiday pay in respect of 1981. The effect was to extend the provision without limitation.

2.2 Other measures intended to achieve equality between men and women

2.2.1 National level

2.2.1.1. National mechanisms

2.2.1.1.1. Commission on the Employment of Women

This Commission was established in 1974 at the Ministry of Employment and Labour (Royal Ordinance of 2 December 1974). The scope of its activity extends to all matters directly or indirectly connected with the employment of women in both the public and the private sector. The Commission on the Employment of Women consists of representatives of workers' organizations, representatives of employer organizations, representatives of the ministerial departments concerned and experts.

The Commission gives its advice either on its own initiative or at the request of the Minister of Employment and Labour, or at the request of the National Council of Labour.

It proposes legislative measures or regulations which are necessary for the application of the advices issued by it. It gathers information, carries out studies, forms public opinion, organizes study meetings and prepares brochures. It constitutes a specialized service available to the public in all matters regarding the employment of women. Its activities have resulted in important amendments to Belgian legislation.

The Commission, however, may not give its advice to the competent courts with regard to disputes relating to the application of the law on the quality of treatment between men and women. It has no supervisory powers. It is obliged to confine its action to reporting any breaches brought to its knowledge by the Inspectorate of Social Legislation, without being able to go any further.

2.2.1.1.2 The Advisory Commission on the Status of Women

This Commission was set up in 1975 within the Ministry of Foreign Affairs and Co-operation to Development (Royal Ordinance of 1 April 1975).

It is empowered:

1. to advise the Ministry on all questions on the agenda of intergovernmental, international and regional meetings which concern women;
2. to see to the applicaion of international instruments which make provision for measures in favour of women or which grant rights to them;
3. to see to the ratification of international conventions which create rights for women or which involve obligations on the part of States in favour of women.

The Advisory Commission on the Status of Women participates actively in the various international organizations, mainly in the United Nations and the Council of Europe.

2.2.1.1.3 The Flemish-speaking and French-speaking Commissions for promoting equality of opportunity between boys and girls in education

These bodies were set up in 1979 at the Ministry of French-language Education and in 1980 at the Ministry of Flemish-language Education. Their role is to foster the progress of co-education, the evolution of mentalities, the diversification of professional options and the recycling of teaching staff.

The work of these Commissions has been manifold and interesting. As with other Commissions, some of their advices have remained a dead letter but others have led to results.

The French-speaking Commission

This commision was set up in 1979. Its mandate was laid down in the Roval Ordinance of 2 April 1979 (Moniteur Belge, 21 September 1979).

The Commission, acting either on its own initiative or at the request of the Ministry of National Education, is called upon:

- to give advice, carry out studies and propose legislative measures or regulations in all matters connected directly or indirectly, with the training of young persons for a professional life offering equal opportunities to boys and girls;
- to study and discuss, and advise on, the various teaching methods - such as mixed schools and co-education - to be applied in order to teach and instill a harmonious relationship between boys and girls, and between men and women in school, family, social, economic, cultural and political life.

The Flemish-speaking Commission

This Commisison was created in 1980. Its mandate was laid down by the Royal Ordinance of 15 February 1980 (Moniteur Belge, 26 February 1980). It was only actually set up on 14 July 1982. The Commission, acting either on its own initiative or at the request, of the Ministry of National Education is called upon:

- to give advice, carry out studies and propose legislative measures or regulations on questions connected directly or indirectly with the promotion of equality of opportunity for boys and girls in all matters relating to educational guidance at all levels;
- to carry out research and give advice on the various educational methods, such as mixed schools and co-education, to be applied in order to teach and instill a harmonious relationship between boys

and girls, and between men and women in school, family, social, economic, cultural and political life;
- to formulate the various elements to be included in the training and recycling programmes for teachers;
- to propose measures for adapting the activities of psycho-medico-social centres and those of the school and vocational guidance offices.

2.2.1.1.4 Advisory Commission on disputes relating to equality of treatment between men and women in civil service

This Commission was set up in 1984 at the Ministry for the Civil Service (Royal Ordinance of 2 March 1984).

The task of the Commission is to give to the competent court, at its request, advice on the application in the civil service of the provisions of Title V of the law of 4 August 1978 relating to equality of treatment.

The Commission may gather all necessary information for the performance of its tasks and avail itself, if necessary, of experts who are not members of it.

It may also, either on its own initiative or at the request of the minister responsible for the civil service, and for the purpose of avoiding litigation, give advice, carry out studies or propose legislative measures or regulations in any matter directly or indirectly connected with equality of treatment between men and women in the civil service.

2.2.1.1.5 Commission on Family Work

This Commission was established in 1985 at the Ministry of Social Welfare by the law of 2 August 1985.

The Secretary of State for the Environment and for Social Emancipation has been entrusted with the implementation of the law of 2 August 1985 providing for the setting up of a Commission on family work. The Commission was established on 26 March 1986.

The Commission, either on its own initiative or at the request of the Minister of Social Welfare or the other Ministers concerned, is called upon to give advice, carry out surveys or propose legislative measures or regulations in all matters directly or indirectly connected with family work.

The Commission is also entrusted with advising the Higher Council for the Family of the French community or that of the Flemish community as well as the National Council of Labour, whenever one of those bodies so requests. In the performance of its task, the Commission may gather any useful information and call upon experts outside its own membership. At this moment, the Commission is examining the first request for advice made to it, which proceeds from the Secretary of State for Social Emancipation concerning the enhancing of family work.

2.2.1.1.6 The Commission on Emancipation

This Commission was set up in October 1986 with the Secretariat of State for Social Emancipation.

These consultative commissions have thus been the first institutional mechanisms established in Belgium on the recommendation of the United Nations to deal with the problems concerning the equality of opportunity and of rights between men and women.

As their name indicates, these commissions have only advisory powers.

2.2.1.2 Ministerial Commission on the Status of Women

This Commission was set up by Royal Ordinance of 18 November 1980.

The setting up of this Ministerial Commission represents the second stage in the struggle being carried out by Belgian women. It constitutes a considerable progress since the Ministerial Committee on the Status of Women is endowed with powers of decision.

It has the task of pronouncing on "problems which relate to the position of women in society and more especially on the measures which have to be taken to ensure equal treatment as between men and women". The Commission is precided over by the Prime Minister.

At the beginning, the cases which came before the Ministerial Commission on the Status of Women were prepared by a team consisting of two women counsellors drawn from the Prime Minister's office. They were in addition called upon to advise the Government on questions relating to women and to co-ordinate the activities of the various commissions.

This team no longer exists at present. The preparatory work of the Ministerial Commission on the Status of Women is now the responsibility of the Secretariat of State for Social Emancipation.

2.2.1.3 "Social Emancipation" Commission of the House of Representatives

This Commission was set up in June 1986 and is empowered to advise on all problems directly or indirectly connected with emancipation. Until now, it has worked in co-operation with the Ministry of Employment, the Ministry of Pensions and the Secretariat of State for Social Emancipation, as well as with the lady Chairman of the Commission on Women of the European Parliament.

2.2.1.4 Secretariat of State for Social Emancipation

Following the elections of October 1985 and the forming of a new Government, a "Secretariat of State for the Environment and Social Emancipation" was established in Belgium. This organ, which is empowered to take decisions, was set up in response to the demands

of all those who, within the various mechanisms established in Belgium, work towards the achievement of equality of opportunity as between men and women.

The pre-existing bodies, with the exception of the Ministerial Commission on the Status of Women, were only advisory bodies. Although, thanks to the efforts of those bodies, considerable results had been achieved, their advice could either be followed or ignored without their being able to react in any way. The simultaneous existence of those various institutional mechanisms may of course have its positive aspects. It may have a stimulating effect, provided there also exists a body endowed with powers of decision adequate for the co ordination of various initiatives and for conducting a concerted policy in favour of women. Such a body with powers of decision now exists in Belgium. The setting up of the Secretariat of State for Social Emancipation must be considered as a remarkable step forward. It is true that the Secretariat of State does not deal exclusively with the emancipation of women but the interests of women will henceforth be defended at the governmental level.

Functions of the Secretariat of State for Social Emancipation:

- Matters of social welfare pertaining to the Ministry Health and the Family and falling within the activities of the general services administration.
- Fostering of activities aimed at the social integration of a number of groups which are not at present fully participating therein because of financial, family or social circumstances.
- The promotion of activities aimed at ensuring equality of opportunit for men and women.
- The co-ordination of social emancipation policies.

The Secretariat of State for Social Emancipation provides in addition the secretariat for the Ministerial Commission on the Status of Women. This means that it can introduce items into the agenda of that Commission, prepare the decisions to be taken and see to it that decisions are effectively carried out.

As a result of the establishment of the Secretariat of State, it is now possible to elaborate a concerted policy on social emancipation.

There are at present three priorities in this respect:

- women and violence
- women in socio-economic life
- women and politics.

Women and violence

Any policy for the emancipation of women must have as its priority objective that of influencing the unequal relations of force existing between men and women. The struggle against sexual violence forms part of this objective. For indeed, violence is one of the

main consequences of these unequal relations of force. In particular, violence perpetuates inequality.

As far as rape is concerned, after several years of discussions, the new draft legislation has not yet been enacted. A draft law is at present under consideration by Parliament. It is essential to ensure that this text should contain:

- a sufficiently broad definition of rape, so as to facilitate prosecution and conviction;
- the protection of the victim's anonymity so as to facilitate the reporting of rape. In many cases, the women concerned hesitate to take this action because of the fear of publicity;
- assurance that the victim will be assisted and that she will find the kind of reception to which she is entitled.

A survey of the problem of sexual harassment in places of work was carried out at the behest of the Commission on the Employment of Women. The Secretariat of State for Social Emancipation has carried out an information campaign on this subject in order to convince women that this harassment is not inevitable, that it is possible for them to react and that remedies can be contemplated. The second phase of this work will consist of an analysis of the measures to be taken in the matter.

Prostitution and violence against children within the family (incest).

These subjects are difficult to deal with because they have for a long time been the subject of all sorts of taboos. Accordingly, the first step to be taken consists of making known the existence and amplitude of the problem, to gather data and to make an objective analysis.

This is precisely what is going to be done. With regard to incest - in respect of which the law of silence has endured for so long - a University study has been carried out. The same is true for prostitution.

Lastly, in respect of the whole body of these problems, there is a need to increase the awareness of the police and gendarmerie forces with regard to these various aspects of violence against women. This implies taking these problems into account in the training of members of the police forces and the gendarmerie, for example. The question will also be considered whether the appointment in those services of women specifically entrusted with dealing with those problems would not bring about an improvement of the situation.

Women in socio-economic life

Very briefly, it may be said that the position of women with regard to employment is evolving but remains still very different from that of men, both with regard to frequency of professional activity and with regard to type of employment. Women account for 39 per cent of the active population. The majority of them are to

be found in very specific sectors and generally at quite low levels of the occupational scale. They are much more affected by unemployment than men.

Any employment policy in favour of women must make provision for stimulants to encourage their employment in growth sectors and in sectors with a future.

This implies:

- improving vocational training for women
- giving women greater opportunities with respect to the choice of career
  promoting placement activities
- fostering equality of opportunity, in particular by appointing women to posts which can serve as an example.

The Secretariat of State wishes to make every effort to foster a more favourable climate for the employment of women and in particular to improve the chances of employment for young unemployed women. In this connection a number of steps forward have been made. Side by side with the plan of economic reform, the Belgian Government has just formulated a programme for promoting the employment of young persons.

The general measures taken in this connection will benefit young women, since they are much more affected by unemployment than their male colleagues. For example: an active policy in the matter of school guidance is particularly necessary for girls, who continue to choose careers which offer little prospect of employment.

Side by side with this, however, three specific measures in favour of young women have been decided:

- Women placement officers will be recruited for the placement offices of the National Employment Office (ONEM). They will be entrusted with promoting employment for women.
- All the employment promotion programmes will have to take into account the structure of unemployment in the region concerned. This means, in concrete terms, that women will have to be represented therein in proportion to their rate of unemployment.
- Lastly, a Royal Ordinance will be enacted in order to bring about positive action programmes. This will make it possible to implement, in both the private and the public sectors, plans to promote equality of opportunity between men and women.

The Secretariat of State emphasises the development of positive actions.

Positive action takes as its starting point the observation of a difference, a discrimination, or a factual inequality. Having noted this fact, its aim is to restore the balance, to remedy handicaps and to do away with difference. Accordingly, positive

action means giving women temporarily a preferential treatment. Positive action must be taken by the public authorities: the State is not only one of the largest employers but can also, in this matter, give an important example. In co-operation with the Secretariat of State for Social Emancipation, positive action has been initiated in one ministerial department: the Ministry of Posts, Telegraphs and Telephones.

Participation of women in political life

In Belgium, women have the same political rights and duties as men. Nevertheless, there are very few women in politics: at the local government level, only some 3 per cent of mayors are women. In the national parliament, women represent barely 10 per cent. At the government level, whether national, community or regional, there are only 4 women among the 49 members of government. It is true that the position in Belgium is no worse than that in other European countries, except for the Nordic countries, where women's participation amounts to nearly 30 per cent.

One of the objectives of the Secretariat of State is to help women to enter decision-making bodies and to favour their integration at all levels of the body politic. In view of the present situation, the introduction of quotas is desirable, not only within the political parties on their ballot lists but also in all other advisory bodies, i.e., the various committees and commissions whose members are designated by the political authorities. Of course, the quota system has not attracted unanimous approval, even within the body of women politicians. The system has, however, proved effective in the Nordic countries and, whatever its drawbacks, it is becoming increasingly apparent that its introduction is indispensable to "reverse the process" and encourage more women to take the step of entering politics. Such are, very briefly, the broad lines of the policy of the Secretariat of State for Emancipation. To summarize the position still further, it may be said that two objectives have been laid down with regard to all aspects of life in society:

- to remedy the handicap accumulated by women;
- to follow this up by ensuring a genuine equality of opportunity and treatment between men and women.

2.2.2 At the Community level

Since 1975, a "Women's Service" has been in operation at the Ministry for the French-speaking Community. A number of information campaigns have originated thereat.

In 1985, the Minister-President set up a "Service for the cultural and vocational advancement of women" at the General Secretariat for the French-speaking Community.

The French-speaking Community also extends to women's associations and movements invaluable assistance through its policies in the matter of continuing education (Decree of 8 April 1976). It also orders scientific studies from French-language universities or from women's associations or organizations.

Examples in 1985-1986

- Analysis of the medicalization of pregnancy;
- Analysis of the requests for voluntary interruption of pregnancy in the French-speaking Community;
- Analysis of the development of measures taken with regard to vocational training of women in the French-speaking community.

By means of specific budgetary grants, arrangements are made to publish information brochures accessible to all women.

Mention should also be made of the social consultation bodies set up at the Ministry of the French-speaking community and the participation of the Advisory Commission on disputes relating to equality of treatment between men and women in the civil service set up with the Ministry of the Interior and the Civil Service (Royal Ordinance of 2.3.1984).

3 Measures taken to modify the socio-cultural patterns and models of behaviour of men and women for the purpose of eradicating sexist prejudices

It it not easy to bring out all that has been undertaken in this respect because the action taken is multiple and many-sided. For example, women's organizations and the women's commissions of trade unions have initiated numerous information campaigns. Brochures have been published, and lectures, symposia and study meetings have been organized.

3.1 Measures initiated by the Ministerial Commission on the Status of Women and in co-operation with the National Council of Belgian Women.

A "vote for women" campaign was undertaken in connection with the local government elections of 1982 with the aim of increasing the participation of women in local politics. A press conference was organized. Flashes were broadcast and televised in the French-speaking region.

3.2 Measures initiated by the Ministry of National Education (Flemish sector).

The Royal Ordinance of 29 June 1983, which stipulates that no one may be excluded on grounds of sex from any organ, has been disseminated by means of an information handout.

To ensure a wider dissemination for this Ordinance, the Ministry of National Education has decided to organize an information campaign and has caused posters to be published and to be distributed in the schools and in the DMS centres.

This campaign will contribute to spread accurate information with regard to opportunities and subjects for study for the benefit of both students and teachers.

3.3 Measures initiated by the Ministry of National Education (French sector).

In the framework of the implementation of the resolution of 3 June 1985 of the Council of the European Communities and of the Ministers of Education assembled within the Council, which included a programme of action on the equality of opportunity between girls and boys in education, the Ministry of National Education has taken the following steps, all of which go in the direction of the United Nations Convention.

1. Dissemination of the European Community resolution

Through the Review published by the General Directorate for the organization of studies, the text of this resolution has been distributed to all teachers and inspectors in State education, to all headmasters of State schools as well as to all officials and parents' associations. The text of the resolution was accompanied by an introduction of the Director-General, who stressed the need for a new programme of action.

2. School manuals

The General Directorate for the organization of studies has transmitted the text of the Community resolution of 5 June 1985 to all the publishers who in the past seven years have submitted schoolbooks, or books intended to be given as prizes or to be incorporated into school libraries to the Councils for the improvement of pre-school, primary and middle-level State education for approval.

These publishers were informed that books used in school institutions will henceforth be selected taking into account the absence of sexist discrimination and stereotypes both in the texts and in the illustrations.

The council responsible for approving the manuals to be used in the pre-school and primary State educational institutions has adopted a new criterion for approval related to the absence of sexist stereotypes (November 1985). It decided that manuals which comply only with the other criteria in the matter may nevertheless be used but must appear in the catalogue of approved books with a special mention. Since that catalogue is sent to all the publishers who submit manuals to the council, the measure will no doubt have an important effect.

Inspectors have been requested to draw attention, on the occasion of their visits to schools, to any discriminatory presentation of the role of men and women in school manuals and reading books.

3. Audio-visual material

- A video cassette, by a Belgian NGO entitled "Let us change the books" deals with the problem of manuals, advertising and vocational guidance. It shows how deeply-rooted stereotypes can be in the minds of young persons as from the end of primary school.

The Directorate General for the organization of studies has supplied this video cassette to all State psyco-medical-social centres and the schools have been invited by circular to use it for the purpose of encouraging children in the third degree of primary education and at the commencement of secondary education to diversify their school and vocational options. The Ministry has given an opportunity to the schools in the province of Brabant to benefit from the activity of a specialized team from "Let us change the books". It is at present engaged in extending this facility to the other provinces of Belgium.

- Two other video cassettes have been distributed to the State psyco-medical-social centres.

One is entitled "Equality of opportunity" and has been jointly financed by a Belgian bank and by the European Economic Community; the other is entitled "professional equality: things are moving" was produced in France following the enactment of the Roudy law which enabled large corporations to carry out schemes for the promotion of professional equality between men and women.

Since these video cassettes set forth the place of women in enterprises engaged in services and in production, they can serve to initiate, in the terminal classes of secondary school, discussion and reflection in depth on the vocational prospects of women.

4. Guidance

A Working Group consisting of men and women directors of psyco-medical-social centres has been set up for the purpose of promoting equality of opportunity.

On the basis of the video cassettes mentioned above, the teams of these centres organize debates in the schools on the eudcational and professional options available and on the need for both boys and girls to plan their lives in such a manner that successive adaptations are possible.

Some of these teams organized a poster competition for 1987. Male and female students from higher level art schools have been called upon to produce the posters on the basis of a study of the motivations and needs of children terminating secondary school and of their parents in the matter of equality of opportunity. It may thus

be expected that the posters produced will merit broad dissemination because of the quality of the message transmitted by them and of their design.

5. Co-education and the new techologies

French-speaking Belgium is participating in European research and action, the subject of the interest and the participation of girls in school activities connected with new technologies of information.

French-speaking Belgium has undertaken this research in two schools at the beginning of the school year 1986-87 in order to take advantage of the opportunity offered by the new timetable of secondary schools. For the first time, an hour of tuition on computers has been introduced into the first year of secondary school for children who do not take the Latin course.

Tuition in the matter is thus conducted with the schoolchildren, their teachers and the parents at a very important point in their school education, namely before the stereotypes relating to the superiority of boys for technical and technological subjects has had the effectof demotivating girls with regard to the computer and scientific subjects.

6. Evaluations

Every year, all seconary schools and all non-university higher education establishments return statistics relating to the choices made by their students. These statistics are broken down by sex. They therefore constitute a good indication of the progress made with regard to the equality of opportunity in education.

This breakdown relates to sections and to options. In 1986, secondary schools were also requested to specify the population of girls and boys divided by branches (mathematics, sciences, languages) which were organized at various levels, i.e. more or less hours of tuition.

7. Information days

Information days to promote awareness of equality of opportunity are being organized for the directors and teaching staff of the pre-school establishments and primary schools of the State who so wish, at the behest of the General Directorate of the organization of studies.

8. Initial training of teachers

A two-day in-training period will take place, on a trial basis, for students of a primary school teachers'

establishment in order to make them aware of the importance of promoting, in their teaching practice, equality between girls and boys.

3.4 Measures initiated by the Ministry of Employment and Labour and the Commission on the Employment of Women

The Commission on the Employment of Women has published five brochures entitled respectively:

- "The Commission on the Employment of Women";
- "Collective Contract of employment No. 25 - equality of remuneration - what is new";
- "Equal treatment of men and women - a law which concerns you";
- "How to formulate in a non-discriminatory manner an offer of employment. Title V of the law of 4 August 1978 on equal treatment of men and women in employment";
- "Basic documentation - Day of information for legal circles - December 1985"

- The first brochure is intended for purposes of general information for a wide public and informs it, among other things, of the specific brochures obtainable from the secretariat of the Commission on the Employment of Women;

- The second and third brochures are systemmatically attached to any communication in reply to every request for information addressed to the secretariat of the Commission on the Employment of Women;

- The fourth brochure has been the subject, on the part of the Commission on the Employment of Women, of several dissemination campaigns among employers both in the public and in the private sectors as well as with the media (newspapers, radio broadcasting stations and television stations), as a follow-up to the results of the public opinion surveys carried out by or for the secretariat of the Commission on the Employment of Women.

The most recent campaign was carried out in 1984-1985 with the employers. It was extended in 1985-1986 to the media.

- The fifth brochure was distributed on the occasion of the Day of Information for legal circles on 13 December 1985. It was subsequently sent:
  - to the press
  - to the persons who had registered for the Day but had not been present thereat
  - to the research services of ministerial departments
  - to public libraries
  - to the libraries of the labour courts and tribunals
  - to the professors of social legislation (universities and institutes of higher learning)

An information campaign was undertaken to promote awareness of the subject of "career pause". The campaign was devised so as to stress the possibility of this type of leave not only for women but also from men.

3.5 Measures initiated by the Secretariat of State for Social Emancipation

A campaign to promote awareness of the theme of sexual harassment at places of work was launched in October 1986. The slogan used was "Sex colleague? ex colleague!". The campaign was based on the results of two sociological studies carried out in the French-speaking and Flemish-speaking regions respectively at the request of the Minister of Employment and Labour and on the recommendation of the Commission on the Employment of Women. Appropriate posters, a brochure and handouts were very widely distributed (annex 2).

The objective of the campaign was to promote awareness among the general public of this problem, which is often ignored or ridiculed, and to indicate to those who are victims of it the reactions and remedies available to them.

Further information campaigns will be prepared, in particular on the occasion of the forthcoming local government elections.

An information brochure has just been disseminated (July 1986) on the measures recently taken by the Government concerning women. The purpose of this brochure is to improve women's information as to their rights (see annex 3).

A brochure will be distributed (March 1987) setting forth all the statistics relating to women: population and family, education, employment, unemployment, salaries and decision-making powers (annex 4).

3.6 Measures initiated by the Commission on the Employment of Women

One day study meetings have been organized and brochures and papers have been disseminated.

BROCHURES

* The Commission on Employment
* Equality of remuneration: what is new?
* The Collective Contract of employment No. 25
* How can an offer of employment be formulated in a non-discriminatory manner? Title V of the law of 4 August 1978 on equality of treatment between men and women in employment (annex V).
* Equality of treatment between men and women: a law which concerns you! (annex 6).
* Sample survey of the persons totally unemployed and receiving benefits as at 30 June 1982 (comments relating to the feminine population").

PAPERS PUBLISHED BY THE COMMISSION ON THE EMPLOYMENT OF WOMEN

No. 1: Extract from the Labour Review for March 1976
Women in the world of employment
(Records of the Study Days of 25-26 September 1975).

No. 2: Extract from the Labour Review for June-July 1977
Employment and unemployment for women in Belgium
(Records of the one-day study meeting of 30 November 1976)

No. 3: Extract from the Labour Review for December 1978
How can mixed employment be achieved?
(Records of the one-day study meeting of 30 January 1978)

No. 4: Extract from the Labour Review for June 1980
How to achieve co-education in schools, the assured means of achieving equality between men and women
(Records of the study days of 29 and 30 November 1979)

No. 5: Extract from the Labour Review for December 1981
New technologies and the employment of women
(Records of the study days on 1 and 2 October 1981)

No. 6: Extract from the Labour Review for April-May 1984
The employment of women and taxation
(Records of the one-day study meeting of 18 October 1982)

No. 7: Extract from the Labour Review for October-November 1984
The employment of women and positive actions
(Records of the study days of 1 and 2 October 1984)

No. 8: Extract from the Labour Review from March 1986
Equality of remuneration and treatment between men and women - information day for legal circles
(Records of the one-day study meeting of 13 December 1985).

3.7 Measures initiated by the Advisory Commission on the Status of Women

One-day study meeting organized on 5 March 1982 on the following theme: "How to promote a change in mentalities - women and the mass media".

3.8 Measures initiated by the Commission on Flemish-language education for ensuring that men and women play an equivalent role in society

Organization of a one-day study meeting on the equality of opportunity in vocational training (1984)

Organization of a poster competition to promote awareness among teachers of the equality of opportunity between boys and girls. The subject of the competition was a design for a poster on the theme

of "equality of opportunity": students of all medium-level schools and those of the plastic arts sections in higher teach-training institutions were invited to participate. Ninety-four designs were submitted. The proposed posters were examined by a jury which awarded 21 prizes. One of the prize-winning posters will be disseminated widely.

A one-day study meeting was organized on the theme: "Equality of opportunity between girls and boys in teaching".

How to introduce these problems into the training and recycling of kindergarten teachers and mistresses, primary school teachers and kindergarten teachers (October 1986).

Organization of a travelling exhibition showing the prize-winning posters of the competitions held in the schools.

Plans for the formulation of a campaign to promote awareness of the theme of equality of opportunity.

4. Measure to suppress the traffic in women and the exploitation of prostitution

Belgium ratified on 6 May 1965 the United Nations Convention on the suppression of the traffic in persons and the exploitation of the prostitution of others of 2 December 1949.

Belgium is a so called "abolitionist" country, i.e. one in which prostitution is neither punished nor regulated or controlled.

Nevertheless, in the case of prostitutes below 18 years of age, measures of protection can be taken by the Juvenile Court pursuant to the provisions of article 36 of the law of 8 April 1965 on the protection of young people.

The exploitation of the prostitution of women constitutes - in the same manner as that of the prostitution of other persons - a criminal offence punishable under articles 379 to 382 of the Criminal Code (see text of the articles annexed).

In accordance with article 379, anyone who favours the debauchery, corruption or prostitution of a minor child, and is aware of that status of minority, is punishable with a term of imprisonment of between one and five years and a fine of not less that 100 and not more than 5,000 Belgian francs (multipled by a factor of 60) if the minor is over 16 years of age.

If the minor is less than 16 years of age, the applicable penalty is of 10 to 15 years' forced labour.

In the same situations, but where the culprit is unaware of the status of minority, article 380 provides for a penalty of between six months and five years imprisonment and a fine of not less than 50 and not more than 5,000 Blegian frans (multipiied by a factor of 60).

Article 380 bis imposes a penalty of one to five years and 100 to 5,000 Belgian francs (multiplied by a factor of 60) to anyone convicted as a pimp or of operating a brothel or of habitually exploiting the debauchery and prostitution of persons of full age.

Article 380 ter lays down the penalty of imprisonment against anyone who has held a perosn against her or his will in a house of debauchery or has compelled her or him to engage in prostitution (cases of traffic in human beings).

Articles 381 and 382 make provision for heavier penalties in certain cases and for hte deprivation of certain rights (article 31).

The Ministry of Justice has pointed out that although in 1985 the Press has reported a few cases of child prostitution, this phenonomen remains a very marginal one in the country.

It must also be pointed out that the Secretariat of State for Social Emancipation has adopted as a priority objective that of making a thorough examination of the problems raised by prostitution and its exploitation in Belgium, with the aim of formulating all appropriate measures to bring it to an end.

5. Temporary ad hoc measures for accelerating de facto equality

5.1 Positive measures

The implementation of positive measures, which is recommended both by the Convention and by EEC Directive 76/207, is not yet general in our country. This is because, although provision for it is made in the law of 4 August 1978, there is still no legal instrument for determining the actions to be carried out, the means to be applied, etc. International experience, moreover, shows that, in the absence of a legal framwork, these actions do not develop.

This gap, however, will be of short duration since it has been decided in June 1986 to formulate a Royal Ordinance which will make positive measures possible. This is one of the steps provided for in the plan for the promotion of employment of young persons adopted by the Government side by side with its plan of economic redress.

5.1.1 State of legislation

Title V of the law of 4 August 1978 on economic redress contains an article 119 stating that

> "The provisions of title V of the present law shall not prevent the adoption of measures aimed at promoting equality of opportunity betweeen men and women, in particular by redressing factual inequalities which affect the opportunities of women to accede to employment, vocational

promotion, guidance, training, and professional improvement and recycling, as well as access to an independent profession, and conditions of work".

"The King, after conducting the consultations provided for in article 122, shall determine the cases in which these measures shall be taken".

Pursuant to that provision, the departments of employment and social emancipation have prepared a draft Royal Ordinance intended to define "positive action", to promote programmes to foster equality of opportunity in the private sector and to make implementation compulsory in the public sector.

5.1.2 Experiments undertaken

A number of experiments have, however, been undertaken in Belgium, both by the private sector and by the public sector, as well as by women's associations. These are chiefly positive actions in the field of guidance, education, training and employment of girls and young women. Some of these initiatives have received the support of the Commission on the Employment of Women and the European Centre for Vocational development and training (see annex).

5.1.2.1 Women's Associations

Women's associations have initiated a number of actions on specific points. Most of these relate to vocational training. Example: the "Keys to employment" service of the Women's Centre for Continuing Education has organized short courses of training to teach women non-traditional professions.

- An experiment carried out by Vie Feminine (Christian Movement of Cultural Action) concerned the introduction of problems relating to equality of opportunity in vocational training and in the continuing training of teachers.
- The actions carried out by the "Omschakelen" guidance and training centres comport a series of programmes for promoting the recycling of women: courses in computer science, communication techniques, etc.
- The actions carried out by the "Sharing" Centre (corresponding to "Omschakelen" in Wallonia).

A number of other actions are also intended to the increased participation of women in the decision-making process.

Example: the Catholic Association for the training of rural women which has sprung from a farmer' union (the Boerenbond) organizes one-day study meetings, in a series of training courses for women and works also for the increased participation of women in vocational and trade-union organizations.

5.1.2.2 Private enterprises

The following may be mentioned, among others:

Belgian banks (Bruxelles-Lambert and Société Générale) make available to their employees courses of training enabling them to obtain promotion to senior posts and posts of responsibility. The Fabrique Nationale provides training as mechanics for women promoted to the level of skilled workers (between 1977 and 1979). Sabena has endeavoured to provide women with pre-training as mechanics. It should be pointed out that Sabena's courses of training are open to both sexes and that the company employs five women pilots.

5.1.2.3 Political parties

The steps taken by the parties are described further on.

5.1.2.4 The public sector

5.1.2.4.1 The National Employment Office (ONEM) has also initiated a number of actions in favour of women.

- As early as 1977, following the increased difficulties in employment faced by young women, ONEM decided to admit women into the "observation and guidance courses" for training in manual skills. As a result of this first measure, only a few women actually completed their training course but ONEM has since broadened its action.
- In 1978, a pilot experiment was conducted on the training of women for "male" occupations.
  This experiment was carried out in the regions of Hasselt-Tongres and Charleroi. It involved 30 women. The results obtained were as follows: 90 per cent of the women trained found a job on completing the course.
- In 1980-1981 this action was broadened (150 women throughout the country).
- 1983: contract between ONEM and CEDEFOP: evaluation of 18 positive actions carried out in Belgium during the past six years in enterprises in favour of women (in the matter of training and access to employment).
- 1984: training of women in the management of computer applications (ONEM-CIFEM).
  The purpose was to train women for posts requiring a high level of qualification. The programme began with an initiation to computer science, existing systems and analysis techniques, and concluded with the study of techniques for interviewing, communication, organization of work, etc.
- 1986: training in word processing and micro-computers for the teaching staff of the Women's Centre for Continuing Education
- "Women 2000" grouping at Charleroi
- implementation for Belgium of the survey on the creation and management of enterprises by women (ONEM-CEDFOP co-operation project)

- designation of "Delegates for equality" within the vocational training service in the French-speaking Community
objective: to intensify the process of diversification in the professional choices for women job-seekers. These delegates are responsible for promoting professional equality in all activities connected with vocational training (information activities, guidance, training, statistics, promotion, training of teaching staff, etc.) (decision of the Management Committee of ONEM - Directorate for Vocational Training - 5 June 1986).

5.1.2.4.2 The Ministries

A study, entitled "Women in the civil service: diagnosis in the Department of Employment and Labour and in that of Communications" was carried out in 1985.

This study demonstrated that women are concentrated in the very low grade posts. Its purpose was to promote equality of opportunity in the Ministries concerned.

As an outcome of this study, a positive action is under way since 1986 in the Ministry of Employment and Labour in favour of the women officials.

The Secretariat of the Commission on the Employment of Women participates actively in this action.

The above-mentioned study has also been used to carry out a positive action in the Telegraphs and Telephones Administration; this action was launched on 23 October 1986 by the Secretary of State for the Posts, Telegraphs and Telephones and was supported by the Secretary of State for Social Emancipation. See Annex 7: "Positive actions in favour of women".

5.2 The quota system

5.2.1 Voluntarily introduced quotas

5.2.1.1. Measures initiated by the organs of political parties

One of the demands of the women's sections of political parties has been, for many of them, the introduction of quotas.

As a result, in the majority of traditional parties, a quota system has been established which guarantees in all cases a minimum presence of women in the party organs:

PS: one fifth of women
PVV: one fifth of women
SP: one quarter of women
CVP: one fifth of women
VU: one fifth of women (solely at the local level).

The quota system does not exist in the PRL and PSC but the women's PSC and PRL Federations are entitled to be represented in all the party organs. The PSC women are at present negotiating a "Convention" the purpose of which is to increase the presence of women at all levels. One of the methods proposed for this is the introduction of quotas.

5.2.1.2 On the ballot lists

5.2.1.2.1 For local government elections

The CVP has been applying the quota system since the local government elections of 1976. As a result of pressure by the "Vrouw en Maatschappij" group, the party has agreed that at least one fifth of the CVP candidates should be women. In 1982, "Vrouw en Maatschappij" had demanded a share of one quarter for women in the lists of candidates for local government. It secured only one fifth but obtained also that, in all communes where CVP is in a majority:

- at least one woman should hold an important office, either that of mayor, or of alderman or the chairmanship of the Public Centre for Social Assistance
- that at least one woman should sit on the said Centre.

In the PVV, women have undertaken since 1976 divers actions to increase the share of women on the lists of candidates for election. Their efforts were successful in 1982. The new statutes of PVV indicates that, in drawing up the lists of candidates, there must be a "trend" towards a minimum feminine participation of 20 per cent.

In the field, this obligation is not observed in an equal manner but the presence of women is making progress at all levels in both parties.

In the SP, at the time of drawing up the lists of candidates, the Bureau "recommends" to the various federations to provide for a minimum representation of women (25 per cent) but nothing is said in the statutes of the party on this subject.

The "VU vrouwen" also adopted the objective of achieving a sufficient representation for women: 25 per cent on the lists of candidates. So far, they have not been successful but they are contemplating initiatives in that direction.

In the PS, the suggestion to introduce quotas for the lists of candidates for election has not yet been generally accepted, though the socialist women's organization is very active and has been able to integrate successfully the women members in the party.

Those women's organizations which had not included the quota system among their demands appear now to be ready to contemplate it: the PSC Women are preparing a convention between themselves and the PSC "aimed at ensuring to women access to office at all levels of power". The PRL Women are prepared to discuss the subject and to envisage it at least as a provisional measure.

5.2.1.2.2 Parliamentary elections

The traditional party with the largest feminine representation in Parliament is the CVP.

In Parliament, CVP has 6 women deputies out of 49 (12.2 per cent) and 7 (*) women senators out of 42 (16.7 per cent); this is considerably above the average for the other traditional parties (Table II).

What is the explanation of this good result? The reason seems to be:

1. the introduction of the quota system;
2. the existence of a powerful and well-structured women's organization

The CVP women organized themselves very early for the purpose of getting their candidates on the lists. Within the CVP, the "Vrouw en Maatschappij" group was established in 1973. It was the first to accept in the party the principle of the introduction of the quota system. At the parliamentary elections of 1974, it agreedthat at least one woman should be favourably placed in the list of candidates for the Chamber or the Senate or at a post of combat or as first deputy candidate on the lists. The number of CVP womenMembers of Parliament more than doubled (from four to nine). At the next parliamentary elections in 1977, the "Vrouw en Maatschappij" group demanded the presence of a woman both at the House ofRepresentatives and in the Senate.

Before the October 1985 elections, "Vrouw en Maatschappij"had adopted the objective of sending 20 CVP women to Parliament.It has at present 14. By comparison with the other parties, these results are encouraging. The leaders of the "Vrouw en Maatschappij" do not attribute these results solely to the use of the quota system: in their view, there must also be a strong group of women politicians that is well integrated at all levels. It should be noted that the CVP is the only party which has adopted this principle of the mandatory presence of women in elected posts and a CVP woman Senator presented in 1980 a proposal for a law to reintroduce quotas for the lists of candidates for local government elections. The proposal was not adopted.

5.2.1.2.3 Conclusions

An analysis of the CVP results shows that the largest increase in the presence of women among its successful candidates took place in 1974 at the time of the introduction of the quota system but that, subsequently, women's representation did not effectively increase or did so very slowly. This is because, since then, the quota system has not been strengthened. The quotas remained unchanged and there has been a tendency for the situation to stabilize.

(*) Since January 1986, as a result of the operation of the replacement system, there are eight CVP women in the Senate.

With regard to the local government elections, the percentage of women on the lists of candidates is very large: analyses have shown that if there are 15 per cent of women on those lists, there are practically 15 per cent of women elected. Women in general make good electoral scores even if legends still persist which try to make believe that they obtain poor results.

With regard to parliamentary elections, on the other hand, candidates are elected in a pre-established order on electoral lists, save in exceptional cases. A candidate who is not high on a list can in practice only be elected by means of a plebiscite of preferential votes. Many men and women voters, who are not well informed, fear that their vote will be lost if they include on their ballot a candidate who is not well placed a thing which is often the case with women candidates. In addition, women candidates cannot be distinguished from men because of the absence of any indication of sex on the lists.

The order in which candidates are placed on the lists is therefore important and, in this respect, the existing quotas constitute imperfect tools: they allow for too many gaps. Some method must be found of improving them.

The limitations of the quota system have thus become apparent: it is clearly essential for women to participate in the actual preparation of the lists of candidates for election if equality of opportunity is to be achieved.

The fact remains that women are not sufficiently strong within the various parties to ensure numerical equality between men and women and still less to ensure that women are well placed on the lists. Women's organizations must therefore organizue themselves so as to bring pressure to bear on their respective parties.

The situation is more complex as regards the other "younger" parties or the smaller parties. An overall survey shows, however, that even the new parties cannot escape the pressure of existing mentalities.

In this case too, there must be either an organization of active women (FDF) or a genuine political will to ensure an adequate representation of women (Agalev).

The Agalev party has in fact adopted a deliberate policy in that respect: its statutes do not actually provide for quotas for women but in the last elections genuine efforts were made to ensure a significant women's presence. It was thus that "Stuurgroep" made a series of recommendations on this subject to its branches: the branches were recommended to place well the women candidates. As a result, out of seven elected candidates, three were women.

5.2.2 Quotas introduced by law

At the level of the Flemish-speaking community

The "Vlaamse Raad" approved on 2 May 1985 a decree establishing a "Council of the Media".

This council has advisory powers regarding all matters pertaining to media policies. It has jurisdiction over radio broadcasting, television and the press.

The establishment of this Council has made it possible to set up for the first time a structure for concertation between the parties interested in media policies.

The composition of this Council merits special attention: no more than two thirds of its membership may belong to the same sex. This means that in practice at least one third of its members will be women.

This constitutes a precedent in Belgium. Formerly, the presence of a minimum number of women in the membership of councils and commissions had never been guaranteed by a quota system. This is also the first time in which a legal provision is enacted on the subject.

- In the sector of the family and in that of public welfare:
  - * In the advisory councils and committees for public sector, an effort is being made to ensure that at least one third of the memberhip consists of women.
  - * In the Higher Council for the Family, women account even for 50 per cent of the membership and in the Commission for the Protection of Women for 42 per cent.

- At the national level

As regards the Higher Council for Social Welfare, set up by the Royal Ordinance of 8 September 1986, this Ordinance specifies "that no more than two thirds of its membership may belong to the same sex".

6. Restrictions or limitations on equality imposed by the law or by practice

The principle of equal rights for men and owmen and that of the free enjoyment of fundamental rights and freedoms without discrimination based on sex suffer, however, from certain limitations resulting from legislative provisions which it has been deemed desirable to enact or to maintain and which are based on more important principles.

6.1 At the time of the ratification of the Convention, Belgium made two reservations:

The first relates to article 7 of the Convention and states:

> "The application of article 7 shall not affect the validity of constitutional provisions such as those contained in article 60, which reserve to men the exercise of Royal powers and of article 58, which reserve to the sons of the King and, failing them, to Belgian princes of the branch of the Royal Family called upon to reign, the office of ex officio senator at the age of eighteen, with the right to vote at the age of twenty-five".

Article 60 of the Belgian Constitution relating to Royal powers specifies that:

> "The King's constitutional powers are hereditary in the direct male line of descent from His Majesty Leopold-Georges-Chretian-Frédéric de Saxe-Cobourg, in the order of the male first-born and excluding women and their descendants in perpetuity".

Article 58 of the Consitution confers upon the heir to the Belgian Royal Crown - who can only be a male - the privilege of being a senator ex officio at the age of 18, with the right to vote at the age of 25.

It must be pointed out that Belgium made an identical reservation upon ratifying the Convention on the Political Rights of Women (article 3) and the International Covenant on Civil and Political Rights (article 25,c).

The second reservation relates to matrimonial property systems and concerns article 15, paragraphs 2 and 3 of the Convention; it specifies as follows:

> "The application of article 15, paragraphs 2 and 3 shall not affect the validity of the transitory provisions enacted with regard to spouses married before the entry into force of the law of 14 July 1976 concerning the reciprocal rights and duties of spouses and their matrimonial property systems, when those spouses, exercising the option granted them by that law, have made a declaration maintaining in full their former matrimonial property system".

See the transitory provisions of the law of 14 July 1976, at pages 48 and 49 of the brochure "Matrimonial property systems" (annex 8).

6.2 Protective legislation

The law provides for numerous restrictions to the principle of equality of treatment, motivated either by the protection tendered by the law to women workers with regard to night work, heavy, unhealthy or underground work and more importantly with regard to pregnancy and childbirth. These restrictions are set out in the law of 17 April 1971 on working conditions in the Royal Ordinance of 24 December 1968. Articles 123 and 129 of Title V of the law of 4 August 1978 specify that these restrictions and protections do not conflict with the principle of equality of treatment. Nevertheless, because of technological and social developments, these protective measures tend to be reviewed or abandoned as no longer justified (which they were at the beginning of the century) and because the present legislative trend favouring equality of treatment in all aspects of working conditions and access to employment.

Women workers have always been protected by Belgian law (law of 16 March 1971 and Royal Ordinance of 24 December 1968) pursuant to the international standards enacted by the International Labour Organisation, and chiefly by Convention No. 89 on night work of 1948.

Following, however, the adoption of European Community Directive 76/207 and the law of 4 August 1978, the Belgian Parliament had a time-limit of four years to review the relevance of these protective laws in the light of the principle of equality of treatment.

Upon consultation of the Commission on the Employment of Women and the National Employment Council, a number of protective provisions which were no longer justified in the light of sociological and technological developments have been repealed. They related to the regulation of the carrying of loads and of unhealthy tasks involving white-lead and lead paint.

The only restrictions which have been maintained are the prohibition of underground work, of navvying and of handling compressed air coffers, as well as the prohibition of night work in accordance with the rules of Convention No. 89 of the International Labour Organisation.

Following the above-mentioned amendments, pregnant women workers are henceforth protected only against risks connected with the carriage of loads during the last three months of their pregnancy, unless the labour doctor adopts a special measure. The Commission on the Employment of Women has therefore recommended, by its advice No. 43 of 25 June 1986, that a measure of protection should be reintroduced for pregnant women workers. This suggestion is at present still under consideration (see annex 9).

With regard to the special case of the protection of women in the armed forces (army, air force and navy) and in the medical service, the Royal Ordinance of 16 April 1977, amended by Royal Ordinance of 5 February 1986, prohibits the employment of women in the following tasks:

1. manual tasks involved in navvying, soil excavation and digging, except those carried out for purposes of self-protection

2. manual tasks carried out with compressed air coffers (article 1)

articles 2 and 3 of this Royal Ordinance prohibit the employment of pregnant women belonging to the armed forces in tasks involving the following occupational risks:

- that of nuclear radiations
- that of harmful effects of certain chemical and physical agents
- that of viral infections.

Moreover, during the last three months of pregnancy, it is forbidden to employ women members of the armed forces in any task involving the manual carrying of loads, i.e. any carriage in which the load is entirely borne by a single person, including picking up and putting down the load. Article 4 of the Royal Ordinance extends the application of certain measures of protection during the breast-feeding period.

6.3 Further restrictions to the principle of equality of access to employment have been introduced by:

Article 122 of the law of 4 August 1978

Article 116 of this law specifies that "pursuant to article 6 of the Constitution, the principle of equality of treatment between men and women applies to access to employment, professional advancement, vocational guidance and training, advanced training and recycling, access to an independent occupation and conditions of work".

Nevertheless, article 122 enables the King to make provision by ordinance taken with the advice of the Council of Ministers, to determine those cases in which mention of sex may be made in the conditions of access to an employment or to a professional activity for which, by reason of the nature or conditions of exercise thereof, sex constitutes a decisive condition".

It must be pointed out that the derogations allowed by article 122 are granted very sparingly and so far solely for wardens of penitentiary institutions and supervisory staff of State institutions of observation and supervised education (see basic documentation, annex 1).

Mention should also be made of the temporary derogations mentioned in article 153 and abolished in 1979.

7. Remedies and penalties provided from by law in the event of discrimination

Any woman who considers that she has been discriminated against in the enjoyment of her fundamental rights and freedoms in the civil, political, economic or social fields may institute proceedings in the court having jurisdiction in the field in which the discrimination has taken place. This is provided for in article 92 and 93 of the Constitution. The law of 4 August 1978 specifies more precisely in its article 130 that "any provisions contrary to the principle of equality of treatment as defined in Title V of the Law shall be null and void". When all the national remedies have been exhausted, the woman concerned may initiate proceedings at the European level with the European Court of Human Rights or the Court of Justice of the European Communities. Plese refer to the documentation (annex 1).

Moreover, if the Commissionon the European Communities considers that a member State has committed a breach of Community law, it may itself bring the matter before the Court of Justice.

Penalties: The law of 4 August 1978 (articles 141 and 152) lays down a whole series of penalties against employers who violate the provisions of the law.

Annex 10: remedial procedures regarding breaches of equality of remuneration and treatment - by E. VOGEL - Polsky in Booklet No. 8 of the Commisison on the Employment of Women, pages 11 to 34.

8. Obstacles encountered in the implementation of the Convention

As we shall see in the chapters dealing with equality of rights in politics and in public life and on equality in the matter of working conditions, the difficulties encountered in achieving complete equality proceed, not from the law but from the persistence of conservative mentalities which act as a brake upon complete equality between men and women.

Moreover, one must not underestimate either the difficulties which are encountered at the pratical level when women wish to reconcile salaried employment and political activity with their family responsibilities.

II. MEASURES INTENDED TO GRANT WOMEN EQUAL RIGHTS IN POLITICAL AND PUBLIC AFFAIRS

Articles 7 to 9

1. RIGHT TO VOTE AND TO BE ELECTED

Belgian women enjoy the exercise of political rights in the same manner and under the same conditions as men. Political rights and in particular the right to vote and to be elected were granted to women in 1920 for local government elections and in 1948 for parliamentary and provincial elections. Furthermore, articles 2 and 3 of the United Nations Convention on the Political Rights of Women, ratified by Belgium in 1964 and article 25 of the International Covenant on Civil and Political Rights, ratified in 1983, confirm the rights granted by Belgian law. Since the laws of 15 April 1920 and 27 April 1921, women in Belgium can hold the offices of municipal councillor, mayor, alderman and treasurer or secretary of a municipality.

Moreover, since the law of 14 July 1976 on the respective rights and duties of spouses, the exercise of a political office by one spouse may in no case be placed in jeopardy by the other, as provided for in article 216, paragraph 1 of the Civil Code.

> 216 paragraph 1. Each of the spouses is entitled to engage in a profession without the consent of the other. Nevertheless, if the latter feels that such activity is calculated to cause serious harm to his moral or material interests or those of the minor children, he or she shall have the right to resort to the Court of first instance and, in case of urgency, to the President of that Court.
>
> The Court may order that the profession in question shall only be carried on subject to the prior modification of the spouses' matrimonial property system.
>
> The provisions of the foregoing two paragraphs shall not apply to the exercise of public office.

2. Right to participate in the formulation of state policies and their implementation

2.1 Participation of women in elected bodies

2.1.1 At the local government level: 1982 elections

Women mayors: 2.87 per cent
Women aldermen: 7.80 per cent
Women municipal councillors: 9.80 per cent

These percentages are substantially similar to those for the municipal elections of 1976.

2.1.2 At the national level: Parliament (Senate and House of Representatives)

1978 elections: 8.00 per cent
1981 elections: 5.10 per cent
1985 elections: 9.49 per cent

2.1.3 At the European level

1979 elections: 8 per cent
1984 elections: 16.66 per cent

2.2 Representation of women in the executive branch of government

There have often been women Ministers in Belgium but in 1986, at the Government level, out of 49 members of the national, community and regional governments, there were only 4 women, i.e. less than during the previous legislature. Three women hold the post of Secretary of State at the national level.

One woman holds the post of Minister in the Executive of the Flemish Community and Region (see Table II).

3. Right to employment in the civil service and to public office

3.1 Legislative developments

Article 6 of the Belgian Constitution guarantees the equality of all Belgians before the law and gives them access to civil and military employment "save the exceptions specified by law".

Relations between the State and its servants are governed by the legislative provisions and regulations based on the Royal Ordinance of 2 October 1937 enacting the status of civil servants. Nevertheless, women were traditionally refused access to certain official positions since the judgement of the Court of Cassation of 11 November 1889, which refused women admission to the Bar.

Reversing those rulings, the Belgian Parliament, as early as 1920, threw open to women the exercise of public office and of certain official functions.

The law of 15 April 1920 relates to women municipal councillors and the law of 27 August 1921 to women mayors, aldermen, and municipal secretaries and treasurers that requires the authorization of the husband concerned. Actually, it was only with the enactment of the law of 14 July 1976 that the requirement of that authorization was dropped.

The law of 7 April 1922 enabled women to become lawyers. The law of 9 July 1926 made women eligible to sit on Labour Courts. The law of 11 February 1947 relates to the profession of solicitor. The law of 27 February 1948 concerns the Judiciary. The law of 1 March 1950 concerns notaries public.

Article 6 bis of the Constitution, adopted in 1970, guarantees to all Belgians the enjoyment of their rights and freedoms without discrimination.

3.2 Status of civil servants

Since 1937, this status no longer provides for any exclusion or discrimination based on sex. There are, however, certain differences of treatment between men and women civil servants but, in theory, access to the civil service was open to men and women and exclusions could only result from specific provisions of the law.

In addition to posts that are not open to women by virtue of the labour protective legislation (heavy tasks, unhealthy jobs, night work, protection of pregnancy), there used to be a certain number of jobs in the civil service from which one or other sex was barred in order to protect women against moral and physical risks or in the interests of the proper organization of work.

The cases of exclusion of women derived until 1978 from:

- the second reservation made in 1964 to the Convention on the Political Rights of Women (article 3) at the time of the Belgian ratification of that Convention
- the special provisions relating to certain sectors of the various Ministries
- the strict application of the labour protective legislation
- the non-access of women to certain institutions, such as the naval and air navigation schools, and the schools of the armed forces.

Between 1976 and 1978, however, a number of Royal Ordinances reserving certain posts to men were repealed (Ministry of Finance, Ministry for Economic Affairs).

- The law of 13 July 1976 relating to the officer corps and the status of the members of the armed forces, provides for the equality of treatment between men and women members of the armed forces.
- The second reservation to the Convention on the Political Rights of Women (article 3) was withdrawn by the Government and the withdrawal was notified to the United Nations on 19 June 1978.

3.2.1 Application of Directive 76/207

Pursuant to that Directive, the law of 4 August 1978, Title V, applicable to the public sector, henceforth ensures equality of access to employment subject to the derogations specified in article 122, which can only be applied through a procedure which guarantees their exceptional character. The law has moreover repealed the provisions of Royal Ordinances which specified for recruitment of posting particular conditions based on sex. This same law threw

open to women access to certain institutions staffed by, or subordinate to, the civil service (Navigation School, Schools or the Armed Forces).

From the legal point of view, since the law of 1978, there are no longer any obstacles to equal access by men and women to the civil service, other than protective labour legislation.

Nevertheless, certain sectors traditionally reserved to men, such as the Armed Forces and the Gendarmerie, the municipal police forces, the services for the protection of the civil population, and the National Railway Service, have been slower in adapting themselves to the admission of women.

In the special case of the armed forces, the observance of the principle of equal access to employment raises in an acute manner the problem of the standards of physical aptitude required for the admission of men and women candidates, in particular for the Royal Military School. In accordance with a Royal Ordinance and a Ministerial Decree of 3 February 1981, the same standards were applied for the recruitment of both men and women as regards physical aptitude tests and also psycho-technical tests.

Observing that women were at a disadvantage in the physical tests which had even been described as "sexist", the Minister of National Defence has adopted certain new measures: the Ministerial Decree of 19 December 1986, superseding that of February 1981, henceforth requires the various tests to be adapted and rendered more flexible so as to increase the chances of success for women candidates bearing in mind their specific physical aptitudes.

Moreover, a General Order of 26 February 1987 admits women to the various divisions of Cadets of the Royal Cadet School.

With regard to the Gendarmerie, the law of 29 December 1975 makes formal provision for the introduction of female staff by replacing article 12 of the law of 2 December 1957 on the Gendarmerie by the following text: "Female personnel shall be subject to the same conditions of work as male personnel belonging to the same corps; a special law shall govern its statute".

Consequently, members of the Gendarmerie are not subject to the labour law provisions which lay down a specific protection for women.

Nevertheless in the absence of a specific régime for the protection of pregnancy, the provisions of the labour law of 16 March 1971 are applicable, in this field, to women members of the Gendarmerie.

Article 130 of Title V of the law of 4 August 1978 on economic redress repeals by implication article 13 of the law of 2 December 1957 on the Gendarmerie which lays down a maximum number of women in the Gendarmerie.

Article 130 also repealed by implication the provisions of the Royal Ordinance of 21 September 1978 which limited the number of women in the distribution of personnel by grade or groups of grades.

Because of the absence of a specific status for the feminine staff of the Gendarmerie, the position of applicants is the same as that for their male colleagues; they are required to pass the same tests for selection and to follow the same course of training. The Royal Ordinance of 3 February 1981 and the Ministerial Decree of 30 February 1981 have been repealed, by implication, any regulations which were incompatible with the principle of equality.

At the practical level, the following consequences ensue:

- the minimum height is laid down at 1.68 m for all applicants
- the fact that a woman is pregnant can no longer constitute grounds for refusing an application
- the physical standards for selection are the same for women as they are for men.

Nevertheless, as was done for the Armed Forces, the provisions relating to the physical standards and tests for selection will soon be made more flexible.

3.2.2 Offers of employment

Access to posts in the civil service is by way of competitive examination; very definite publication measures are required in this respect. Vacancies for posts are generally advertised in the Moniteur Belge by the Permanent Secretariat for Recruitment which is subordinate to the Prime Minister's Office.

3.2.3 Remuneration

Government departments abide strictly by the principle of equality in respect of salaries and give to all officials who are recruited, whether men or women, the same basic treatment and identical rights to a retirement pension.

The fact that this principle is recognized in this way is of great importance since the State is the largest employer in the country. Out of a total of 831,000 persons employed by the State in 1984, 37 per cent were women.

3.2.4 Career prospects

The rules contained in the civil service legislation relating to recruitment, posting and promotion protect in the same manner the career prospects of all officials, whether male or female. Except for level I, promotion from grade to grade is based on seniority, thereby excluding in principle all discrimination based on sex.

Distribution of permanent posts on 30 June 1985

(a) Ministries:
men - 69.67 per cent
women - 30.33 per cent

(b) Scientific institutions:
men - 75.79 per cent
women - 24.21 per cent

(c) Organizations of public interest:
men - 84.56 per cent
women - 15.44 per cent

(d) Special bodies:
Education sector:
men - 43.17 per cent
women - 56.83 per cent
Army and Gendarmerie:
men - 95.75 per cent
women - 4.25 per cent
Judiciary:
men - 68.66 per cent
women - 31.34 per cent

(e) Communities and Regions:
men - 69.02 per cent
women - 30.98 per cent

3.2.3 Position of Professionals

The percentage of women occupying a post at level I (requiring a university qualification) is still very much less than that of men. The higher the rank, the greater the difference. The position in the Ministries shows that only 9.67 per cent of the women staff were at level I in 1984.

This, however, represents an enormous progress by comparison with 1975, when th percentage was 4.76 per cent.

Naturally, women abound at levels III and IV (44.34 per cent and 34.52 per cent) representing a considerable increase by comparison with 1975 when there were 36.23 per cent of women at level III and 20.13 per cent at level IV.

On the other hand, the presence of women in the higher echelons of the Administration, i.e. among the principal officers, is minimal: 2.6 per cent of the total number of officials in this category; more importantly, the percentage of women remains totally stagnant.

In view of this situation, the Government authorities have decided to promote the employment of women in the civil service by means of positive measures.

4. Right to participate in non-governmental organizations and associations concerned with the political and public affairs of the country

In Belgium, the right of association is guaranteed by article 20 of the Constitution and has been confirmed by article 11 of the European Convention on Human Rights and article 22 of the International Covenant on Civil and Political Rights. Accordingly, women just like men are free to form associations and organizations for political, trade union, cultural, social and feminist purposes. There are some 250 women's associations throughout Belgium.

Nearly all the trade unions and political parties have their Women's Commissions. It can, however, be noted that notwithstanding a 30 to 40 per cent participation by women in political parties, they are virtually absent from the political bureaux and decision-making organs of the parties. The same is true of trade unions.

It is worth noting that a woman has for the first time been elected president of a traditional party, namely the PVV.

The position is, in fact, that in any large organization comprising both men and women, the latter are invariably underrepresented at the decision-making level. This is why women have demanded and obtained in certain parties the introduction of a quota system for the various internal organs of the party and, in particular, in the drawing up of lists of candidates for election (see above, paragraph on quotas).

5. Possibility of representing the Government at the international level and of participating in the work of international organizations

Belgian women can represent their Government at the international level and can participate in the work of international organizations on an equal footing with men. Of course, in view of the comparatively small number of women in the upper echelons of the Government and the Civil Service, they are to be found chiefly in the delegations to meetings dealing with the specific problems of women, for example, in the OECD, in the office dealing with problems concerning the employment and the equality of women of the European Economic Community, in the ad hoc committees of the Council of Europe and in the United Nations Commission on the Status of Women.

Belgium was a member of the United Nations Commission on the Status of Women from 1970 to 1980 and took an active part in the preparation of the Convention on the Elimination of All Forms of Discrimination against Women. The members of the Belgian associations of women jurists and the members of the Commission on the Status of Women at the Ministry of Foreign Affairs put forward many important amendments to the basic text and their work was published as a United Nations document (E/CN.6/591/Add.1). This text served as a document for discussion at the twenty-sixth session of the Commission on the Status of Women held at Geneva.

During that session, the Belgian delegation was presided by the President of the Belgian Commission on the Status of Women. During the twenty-seventh and twenty eighth sessions of the United Nations Commission, devoted to the preparation of a world programme of action, Belgium, as a member of the Preparatory Committee, was represented by the President of the Belgian Commission on the Status of Women. The Belgian representative was also appointed Rapporteur at the regional seminar of the Economic Commission for Europe which prepared the Copenhagen Conference. The same representative was also Rapporteur of the First Commission entrusted with the preparation of the national part of a world programme of action during the Copenhagen Conference.

At that Conference, the Belgian delegation was presided over jointly by two Belgian women ministers and consisted of representatives of the various national advisory commissions and of political personalities who were very active in the field of women's rights. At Nairobi, the Belgian delegation, which had a large membership, was led by the Secretary of State for Posts, Telegraphs and Telephones.

In the Belgian diplomatic corps, the presence of women is minimal, as is the case in all higher levels of the Civil Service. In the whole diplomatic service (grades 16 to 16, level I) there are 21 women for 380 men (i.e., 5 per cent).

6 Equality of rights in the matter of nationality

Article 9 of the Convention

6.1 The law of 28 June 1984 relating to certain aspects of the status of aliens and instituting the Belgian Nationality Code has introduced fundamental reforms into Belgian nationality legislation. These reform provisions include measures which fully meet the obligations undertaken under the above-mentioned article 9.

6.2 Article 16 of the Belgian Nationality Code, which entered into force on 1 January 1985, provides that "marriage does not have any automatic effect on nationality". It follows that a Belgian woman who enters into marriage with an alien no longer loses her Belgian nationality and, reciprocally, a foreign woman who marries a Belgian no longer acquires automatically Belgian nationality. The spouse of a Belgian man or woman can apply for Belgian nationality and obtain it with the consent of the Court, provided certain other legal conditions are met.

The Code grants to women the same rights as men with regard to the acquisition, change and conservation of nationality.

Moreover, articles 8 and 9 of the Nationality Code confer Belgian nationality on the child of a Belgian parent (father or mother) or on the adopted child of a Belgian, without discrimination between men and women.

6.3 The courts have jurisdiction over all disputes relating to nationality, including cases of discrimination against women in the nationality field.

6.4 We attach the text of the articles of the above-mentioned Code which enshrine the principle of non-discrimination between men and women with regard to the conferring, acquisition and recovery of Belgian nationality (chapters II, III and V). (annex II)

III. EQUALITY OF CULTURAL, ECONOMIC AND SOCIAL RIGHTS

Articles 10 to 14

1. Equality of cultural rights - Education and training

Article 17 of the Belgian Constitution specifies that there is freedom to teach and that public education given at State expense is governed by the law.

There is no difference between boys and girls with regard to access to education. The basic law of 20 September 1884 (supplemented by the law of 15 September 1895, that of 19 May 1914 and that of 13 November 1919) does not make any distinction between the sexes. Article 1 of these laws - consolidated on 20 August 1957 - specifies that "every head of family shall be under an obligation to give his children, or ensure that they receive, an adequate primary education".

Article 13 of the Law of 29 May 1959 - the so-called "School Pact Law" - specifies that infant, primary and secondary education are free in State schools and in subsidized schools.

School attendance is compulsory for children between 6 and 18; it should, however, be pointed out that since the law of 23 June 1983, which raised the school-leaving age to 18, pupils of vocational schools may, from the age of 15, combine half-time schooling with half-time in-service training in an enterprise.

Compliance with compulsory school attendance is controlled through the municipal administrations.

The foregoing provisions are supplmented by a series of measures which organize the freedom of choice on the part of parents of the type of school for their children in accordance with their ideological and religious tenets.

Belgium thus complies with all the provisions embodied in article 13 of the International Covenant on Economic, Social and Cultural Rights.

1.1 Definition of vocational training

In accordance with articles 124 and 125 of Title V of the law of 4 August 1978 and the Royal Ordinance of 29 June 1983 relating

to equality of treatment between men and women with regard to access to vocational training given in school institutions - an ordinance issued to implement the above-mentioned articles 124 and 125 - the term "vocational training" is taken to mean all forms of education except that given in general infant, primary and secondary schools.

Accordingly, all forms of technical, artistic, vocational and special secondary education, as well as of higher education, fall within the scope of application of articles 124 and 125 of the law of 4 August 1978 and of the Royal Ordinance of 29 June 1983.

Since the adoption of that ordinance, no pupil may be excluded on grounds of sex from any form of training (technical secondary education, vocational training and non-university higher education) if that training is not available in the region concerned in another school of the same network of the pupil's choice.

1.2 Vocational guidance

The term guidance "must be taken to mean information and advice relating to study opportunities and the school and vocational guidance provided by the psycho-medico social centres, the persons and bodies assimilated thereto, and the similar services set up in the framework of the universities".

1.3 Mixed educational institutions

The Royal Ordinance of 29 June 1983 makes it illegal to refuse to register on grounds of sex a regular pupil unless there exists in the territory of the commune where the institution is located, another institution of the same character which provides the desired vocational training and where pupils of the sex in question can register. The principle of the mixed character of educational institutions is being introduced gradually; its application will be complete on 1 January 1990.

1.4 Coeducation and eradication of sexist prejudices

In daily practice, State institutions are now 100 per cent mixed. In the north of the country, however, in the subsidized Catholic educational system, this character - and still more coeducation - is far from being achieved.

In the mixed institutions, the curricula and school activities are the same for boys and for girls, except for the physical training programmes in the secondary schools, in order to take into account physiological differences and to keep the dressing rooms separate.

It has been noted since 1980, however, that mixed education as a practical organization formula does not guarantee the equality of boys and girls in a non-sexist perspective. This is borne out by:

- the typically sexist character of the distribution of roles in the teaching staff and in the direction of school institutions;

- the image given in school books of the roles of men and women;
- the manner in which the teachers see and judge the behaviour of the pupils.

Moreover, within a mixed school, there often are classes that are almost entirely homogeneous. This is because of the very stereotyped options and the choices made either exclusively by girls or exclusively by boys.

In this connection, instructions have been given to the staff of the psycho-medico-social centres who are partly in charge of school and vocational guidance to avoid all sexist prejudices regarding the various professions and occupations offered to boys and girls.

Minds, however, move very slowly and it would appear essential to take measures of positive discrimination in favour of girls in order to encourage them to choose certain courses of study which are always chosen by a majority of boys.

1.5 Persistance of so-called "feminine" careers

Although no career in the technical and vocational training is actually closed to girls, they tend to gravitate towards "feminine" professions, i.e., those relating to textiles, clothing, assistance in shops and para-medical services. As for boys, they tend to take up the mechanical, electrical, building and electronic professions.

The under-representation of young women in certain careers of higher education (higher technical training, applied sciences) is the normal result of their under-representation in the secondary school courses which lead to the higher education studies in question.

In non-university higher education, it has been noted that girls are apt to choose the shorter courses of training, which accounted for 62 per cent of the girl graduates in 1982, with only 26 per cent of girl graduates in the longer courses; the corresponding figures for boy graduates were 38 per cent and 74 per cent respectively.

Among the girls taking short training courses, almost one half trained for the two professions of nurses and social workers. As for the girls taking the longer courses, more than half study for the professions of interpreter or translator.

The position is similar in the Flemish-speaking part of the country, with 61 per cent of the girls in short courses of training and 26 per cent only in long courses.

At the university level, the situation has been taking a turn for the better since 1975 in the faculties of mathmatics, science and medicine but 25 per cent of the girls are still in the faculties of arts. It must, however, be noted that although girls account for approximately 40 per cent of university degrees, only 8 per cent have gained degrees in applied sciences. This percentage of 40 per cent of girl university graduates is very encouraging in so far as

it shows that the families are beginning to have the same professional ambitions for their girls as for their boys but the difficulties encountered in the labour market (as a result of the retrograde mentality of private sector employers) afford little encouragement to girls to embark on university studies which are unlikely to open for them access to a so-called "masculine" profession involving heavy responsibilities.

1.6 Commission for the equalization of training opportunities

A Royal Ordinance of 2 April 1979 set up within the Ministry of National Education (French-speaking sector) a Commission to promote equality of opportunity between boys and girls in education; as for the Ministry of Education (Flemish-speaking sector), a commission was set up in it by a Royal Ordinance of 15 February 1980 to ensure equality of roles for men and women in society.

These two Commissions have advisory powers; they can give advice on their own initiative in all matters concerning:

- directly or indirectly a career training which affords equal opportunities to boys and girls;
- the various teaching methods: mixed schools, co-education, etc., which must be brought into play to educate young people so as to promote a harmonious boy-girl and man-woman relationship in school, family, social, economic, cultural and political life.

Representatives of the Commission on the Employment of Women (set up by Royal Ordinance of 2 December 1974) sat on the above-mentioned Commission whose membership is distributed so as to ensure a balance between the ideological views and sexes of the members.

In 1986, the French-speaking Commission focused attention on a series of outstanding problems in education:

- The diversification of the educational guidance of girls;
- The training of girls for skills required in new technologies;
- The organization of part-time training in application of the law of 29 June 1983.

  This formula involves half time of training with half-time of work.

  The Commission recommended, among other things, that girls should be better informed of this type of training. It also pointed out that few girls have access to it because of the legal provisions now in force. The Commission made proposals to correct the existing situation so that girls may, like boys, take advantage of these facilities.

In 1986, the Flemish-speaking Commission focused attention on a series of outstanding problems:

- women in advisory and executive bodies. Women are under-represented in advisory and executive bodies. The

nomination and appointment of women to advisory and executive bodies must be demanded with insistence. The rule that a maximum of two thirds of the same sex should not be exceeded must be applied to the composition of the autonomous Councils for State education.

Co-education and equality of boys and girls in the recycling of teachers

The topic of "co-education and equality of boys and girls" must be put on the agenda of educational conferences and weekly meetings. It is necessary to examine the manner in which the problem of the equality of opportunity can be solved with regard to the various recycling schemes which have recently been launched.

Emancipation should be the subject of consultations

The Secretary of State for Social Emancipation should organize regular meetings with the existing organs (Commission on the Employment of women, Commission on Education, Commission on the Status of Women).

Objective: to promote awareness of the problems of co-education and the equality of opportunity in a number of circles concerned with education: social organizations, women's movements, family organizations, etc.

Co-education and equality of opportunity between men and women in university research and university training of teachers.

Incorporation of the problem of the equality of opportunity between boys and girls in the training programmes of kindergarten and primary school teachers, and men and women secondary school teachers.

1.7 Adult education and recycling

The socio-cultural training sector, the teaching sector, the world of industry, the middle classes and the National Employment Office (ONEM) offer recycling and advanced training facilities, as well as continuous training. In all these types of training, the specific roles and specific prospects for the future of men and women become apparent. Men are more career-oriented and are more inclined than women to engage in types of training which lead to promotion and career advancement. Women who are active at the professional level are less inclined to follow recycling courses. In the socio-educational sector, they are more interested in general education and home training than in courses connected with a specific profession.

For example, in the social promotion training courses, we find a greater proportion of women than men in the lower secondary vocational courses. The higher courses in social promotion are taken by fewer women. Out of 3,349 diplomas granted at the end of the school year 1982-1983, 1,126 were won by women and 2,223 by men (in the Flemish-speaking region).

The women's associations have recently been active in promoting vocational training and advanced training of women. Thus, "Omschakelen" provides women with an opportunity to obtain the medium education certificate or to learn trades which are not considered traditionally feminine. In the French-speaking part of the country, the "Centre féminin" pursues the same objectives. In the framework of "the education of the second chance", active efforts are being also made to interest women in diplomas likely to favour their integration in economic life and to help them to obtain these diplomas.

2. Equality of economic rights

2.1 The right to work

At the international level, the right to work is guaranteed by international instruments signed or ratified by Belgium, such as the Declaration of Philadelphia of 1944, the Universal Declaration of Human Rights of 1948, the European Social Charter (not yet ratified) of 1961 and, more particularly, the International Covenant on Economic, Social and Cultural Rights (ratified in 1983), article 6 of which provides as follows:

> "1. The States parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.
>
> 2. The steps to be taken by a State party to the present Covenant to achieve the full realization of this right shall include technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual."

At the national level, the right and the freedom to work have been instituted by the Allarde Decree of 2-17 March 1791, a French decree issued in the Belgian and Liégeois provinces (which has remained in force in Belgium) abolishing the guilds and expressly establishing the freedom of work and industry (article 7).

This freedom has subsequently been endorsed by article 1134 of the Civil Code, which enshrined the freedom of contract: "Agreements legally entered into have the force of law for those who have made them".

However, in view of the fact that the system of absolute freedom with regard to economic activities had led to grave abuses against the workers, the social legislation adopted since 1877 has introduced derogations to the principle of that freedom and to that of the freedom of contract.

Although the right to work is not expressly mentioned in the Belgian Constitution, it is recognized and guaranteed by many legal

provisions and regulations and has given rise to many mandatory provisions: these provisions deal with the placement system for workers, the organization of vocational training, and the protection of workers through the requirement to pay compensation for the termination of a contract of work by the employer.

It may also be said that, since Belgium has approved the Declaration of Philadelphia, has signed the European Social Charter and has ratified the International Covenanton Civil and Political Rights, it ahs adopted the system of the mandatory regulation of employment.

The State intends to follow a full employment policy. It sees to the vocational training of workers. It organizes the labour market and regulates working conditions, or has them regulated by joint worker employer commissions. It takes a whole series of measures intended to promote employment, particularly in the present conditions of economic crisis.

The ideology of the right to work and the free choice of work implies that the Government authorities must keep themselves informed of the labour market. They must create new employment opportunities, organize the vocational training and recycling of workers, organize the labour market by bringing together job seekers and prospective employers; they must assist workers handicapped by invalidity to obtain employment, they must favour the mobility or resettlement of workers and, lastly, they must provide financial assistance for those who are involuntarily unemployed.

All these activites on the part of the Government authorities are carried out for the whole active population without any distinction as to sex.

We have seen in chapter III, section 1 (Education and training) that the training of workers as from the primary school is the responsibility of the Government authorities; that the right to education, to vocational training, to continuing training, and to vocational recycling is guaranteed by the law. We have also seen in that same chapter that the equality of opportunity is guaranteed in principle to all individuals, men and women, but is countered by certain sexist prejudices which continue to be perpetuated in school, in the families and even in the centres for school and vocational guidance.

2.2 Right to equality of remuneration for men and women

Equality of remuneration for men and women has been enshrined in the Treaty of Rome of 23 March 1957 instituting the European Economic Community. Article 119 of that Treaty specifically relates to women as workers. This article states:

> "Each Member State shall in the course of the first stage ensure and subsequently maintain the application of the principle of equal remuneration for equal work as between men and

women workers. For the purposes of this article, remuneration shall mean the ordinary basic or minimum wage or salary and any additional emoluments whatsoever, payable directly or indirectly, whether in cash or in kind, by the employer to the worker and arising out of the workers' employment.

Equal remuneration without discrimination based on sex means:
(a) that remuneration for the same work at piece-rates shall be calculated on the basis of the same unit of measurement; and
(b) that remuneration for work at time-rates shall be the same for the same job."

It must not be imagined that this article was inserted in the Treaty of Rome in order to promote equality between men and women. Its main purpose was essentially economic. It was intended to promote free competition between the industries of States members by avoiding any distortion of competition based on lower paid female labour.

Nevertheless, whatever the motivations behind that article, it remains the first written legislative source on non-discrimination regarding women's remuneration. Directive 75/117 was adopted on 10 February 1975 by the European Economic Community in order to compel the member countries to apply effectively equality of remuneration.1/

The implementation of that Directive is ensured in Belgium by Collective Contract of Work No. 25 concluded on 15 October 1975 in the National Employment Council.2/

This collective contract covers the whole of the private sector, so that the principle of equality of remuneration extends to all sectoral agreements

Before the principle of equality of remuneration entered into general application, equality in the public sector was governed by the Royal Ordinance of 22 July 1964, since replaced by Royal Ordinance of 29 June 1973.

The principles embodied in Directive 75/117 have been supplemented by Directive 76 207 and the law implementing it of 4 August 1978, Title V of which relates to equality of treatment between men and women with respect to working conditions, including remuneration (article 128).

1/ Text of the Directive: Annex 1, Basic Documentation, pages 5 to 9.

2/ Text of the Contract: Annex 1, Basic Documentation, page 96.

Analysis of Collective Contract No. 25 of 15 October 1975

1. According to article 1 of the Collective Contract of Work No. 25 of 15 October 1975, equality of remuneration between men and women workers means that for the same work, or for work of the same value, all discrimination based on sex must be eliminated.

   This principle applies to all elements and conditions of remuneration, including, where appropriate, systems for the evaluation of duties, choice of criteria, the weighting and transposing of evaluations into components of the remuneration. It must be added that Title V of the law of 4 August 1978 on equality of treatment stipulates that working conditions include "provisions and practices relating in particular to remuneration and to its protection" (article 128).

2. Any administrative provision or regulation comporting a discrimination is null and void and it is open to any person to invoke that nullity before a court.

   Any provision of a collective contract which conflicts with the law or an ordinance, or with a treaty or international instrument binding upon Belgium, is null and void (article 51 of the Law of 5 December 1968). Moreover, the Law of 4 August 1978 declares null and void any provisions of a collective agreement or factory regulation which are contrary to the equality of treatment (including salary equality).

3. It is illegal to dismiss a person or to modify his working conditions when he had lodged a complaint with the enterprise, the Labour Inspectorate or the Courts to assert his rights in the matter. If the grounds for dismissal are alien to the complaint, the proof thereof rests upon the employer. Failing reinstatement of the worker in the enterprise, compensation must be paid to the worker (article 7 of the Collective Contract No. 25 and article 136 of the Law of 4 August 1978).

4. The control of the application of the principle rests with the Social Legislation Inspectorate.

   In order to ensure that workers are kept informed, Collective Contract No. 25 must be annexed to the regulations of the enterprise.

   A brochure has been circulated by the Commission on the Employment of Women and the General Commissariat for the Promotion of Employment (Ministry of Labour and Employment). The Commission on the Employment is empowered to report all offences to the Social Legislation Inspectorate, among others.

5. As for the remedies available, workers in the private sector (law of 12 April 1965, article 17 bis and Collective Contract No. 25 of 15 February 1975, article 5) and in the public sector (Law of 4 August 1978) have a right of recourse against any breach of equality of treatment.

Organizations representing employers and workers have the capacity to institute legal proceedings (article 4 of the law of 5 December 1968 and law of 4 August 1978).

Professional organizations are entitled to defend the rights of their members even against the will of their members. A joint commission specialized in the matter of equality of remuneration and treatment between men and women (provided for by Collective Contract No. 25) and entrusted with the task of advising the competent courts on disputes has met and has given its advice for the first time to a court (Antwerp Court) on 7 March 1983.

A suit in annulment may be introduced before Conseil d'Etat against any act or regulation issued by an administrative authority which is contrary to article 119 or to the directives of the EEC.

Any discriminatory collective contract may be impugned before the Council of State and the Labour Courts (if the Convention has been made mandatory by Royal Ordinance) or before the Labour Courts if not rendered mandatory.

6. The clause guaranteeing the applicaton of the principle of equality of remuneration is not systematically included in collective contracts because Collective Contract No. 25 extends to all sectoral contracts.

It must be noted that all collective contracts must be filed with the Registry of Collective Relations of Work of the Ministry of Employment.

Since the entry into force of Collective Contract of Work No. 25 in 1975, it can be said that all forms of discrimination have formally disappeared in the salary scales in force in Belgium; these no longer contain any reference to the sex of the workers.

The Basic Documentation indicates the few judicial decisions relating to this subject (annex ...., page 72, judicial precedents).

By Royal Ordinance of 10 September 1981, Belgium has amended the Royal Ordinance of 30 January 1967 which made the granting of a special "housing allowance" subject to more restrictive conditions for women civil servants than for their male colleagues.

Any inequalities which remain proceed chiefly from the supplementary benefits granted by enterprises to their staff and

which are often connected with the condition of "head of family". These schemes will have to be reviewed in the light of the new Community Directive on equality in occupational social security schemes.

Lastly, it is obvious that, statistically, women's remunerations remain considerably below those of men. This state of affairs, however, is due to social causes which cannot be remedied by legal means: inadequate average qualification of women for the better paid jobs and the fact that part-time jobs are filled by a vast majority of women.

2.4 Right to equality of treatment between men and women

In Belgium, equality of treatment is guaranteed by article 6 of the Constitution and by Directive No. 76/207 of the European Economic Community of 9 February 1976 implemented by the law of 4 August 1978 (the "Economic reorientation law"). Title V of this law is entitled: "Equality of treatment between men and women with regard to working conditions and access to employment and to vocational training and promotion as well as to an independent profession".

Annex 1.
See Basic Documentation: page 10 for Directive 76/207
page 38 for the law of 4 August 1978.

Analysis of the law of 4 August 1978, Title V

1. Article 118 of the law of 4 August 1978 adopts the same definition of equality of treatment as Directive 76/207, namely: "The principle shall mean that there shall be no discrimination whatsoever on grounds of sex either directly or indirectly by reference in particular to marital or family status".

   The law does not contain any definition of "indirect discrimination" but it provides for a number of prohibitions which shed light on the content of indirect discriminations; for example, it is forbidden, in vacancy notices or offers of employment, to use language which, even by implication, indicates or implies the sex of the worker (article 121, 1°).

2. Title V of the law of 4 August 1978 in the matter of access to employment and to professional promotion (self-employed workers included) and in the matter of working conditions and dismissal.

3. The law declares null and void any provisions which conflict with the principle of equality of treatment, including those contained in collective contracts.

4. The principle must be observed in all the practices - i.e. in all isolated or repetitive acts of a public or

private organization, of an employer or person towards one or several other persons.

Article 131 of the law of 1978 makes provision for a right of action for injured persons.

5. Article 121 of the law of 1978 specifies that equality of treatment must be assured in all provisions and practices relating to conditions of access and selection, including the criteria for selection for employment or for posts and access to independent professions, regardless of the activity involved, and at all levels of the professional scale. This prohibition concerns the public sector, the private sector and self-employed workers. See annex 12 (Collective Contract No. 38 of 13 December 1983).

6. Access to employment of pregnant women
Women are not obliged to state their condition but a prior medical examination can always be required.

7. The law prohibits all reference to sex in the conditions or criteria relating to access to vocational guidance, training, apprenticeship, advanced training or recycling and to social promotion, as well as the use of elements which lead to discrimination.

Similarly, it is forbidden to refuse (or hinder) access to guidance, training, etc., on grounds explicitly or implicitly based directly or indirectly on sex.

8. The application of article 125 of the law, which incorporates into Belgian legislation the rules laid down in article 4 of the Directive, has been made subject to the adoption of royal ordinances determining the meaning in which vocational guidance and training must be construed.

(See chapter III, 1 Education and Training and Basic Documentation, page 65).

9. Sex may be mentioned in forms relating to offers or conditions of access for certain jobs, such as actor, actress, model, etc., or to activities abroad outside the European Economic Community in places where the laws and customs require the selection of persons of a given sex.

Certain posts (protection of youth, civilian agents of military security, gendarmerie, municipal police agents, firemen, etc.) remain outside the application of the Directive. For prison wardens, a two-year experiment has been initiated at the beginning of 1982.

10. Equality of treatment must be assured in all provisions and practices relating to working conditions and dismissal (article 127) in both the public and the private sectors.

11. Any injured person may initiate proceedings with the competent court, the same is true of representative organizations of employers and workers in the private and public sectors and of independent workers. The burden of proof rests with the injured person.

Article 136, al. 2, provides for the reversal of the burden of proof, which will thus rest on the employer when the worker is dismissed or when his working conditions are unilaterally modified in the 12 months which follow the filing of a complaint.

Collective Contract No. 25 has set up a specialized Commission to deal with matters of equality; this Commission is empowered to give advice to the courts (first meeting held in March 1983).

The Commission on the employment of women is also competent to give advice.

For the public sector, the Royal Ordinance of 2 March 1984, amended by Ordinance of 9 January 1985, has set up a Commission competent to deal with disputes relating to equality of treatment between men and women in the civil service.

12. A Royal Ordinance will determine the cases in which measures of positive action may be taken. In the opinion of the Commission on the Employment of Women, specific forms of training should be authorized to enable women to attain a level of qualification which has been beyond their reach at school, or specific measures must be taken in favour of girls with regard to school and vocational guidance.

3. Equality of social rights

Article 11, paragraph 1 (e) of the Convention specifies that the States parties undertake to take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights to social security, particularly in cases of retirement, unemployment, sickness, invalidity and old age and other incapacity to work, as well as the right to paid holidays.

3.1 Equality in rspect of retirement pensions and survivor's benefits

Discrimination against women has been abolished in the pension system for salaried workers.

The measures which have been taken have had the effect of granting pensions at the household rate to women and survivor's benefit to widowers, of bringing the guaranteed minimum pension for

women into line with that for men and of enabling men to qualify for pension purposes the periods during which they have raised their children.

The above-mentioned measures have been introduced into the legal regime governing retirement pensions and survivors' benefits for salaried workers. Any woman who is the subject of discrimination in the application of the above mentioned measures can initiate proceedings before the courts.

The consolidating law of 10 February 1981 relating to pensions in the social sector made provision for bringing the minimum pensions for women into line with those of men.

The law of 15 May 1984 enacting measure to harmonize pension schemes contains the following measures:

1. Women may henceforth benefit from pensions at the household rate if they have a dependent husband. This represents a 25 per cent increase in the pension.

   Until now, only male workers could obtain a pension at the household rate. In order to qualify for this benefit a pensioned worker had to submit a new request to the communal administration.

2. Widowers will be henceforth entitled to a survivor's pension. Until now, that pension was reserved for widows. Widowers will be entitled to a survivor's pension under the same conditions as those applicable to widows.

Royal Ordinance No. 410 of 18 April 1986 has amended the law of 11 July of 1973. Henceforth, a working father can validate for pension purposes any periods during which he has taken care of his children until the age of three (six if handicapped) against payment of the appropriate contributions. Formerly, this benefit was available only to a working mother.

Except with regard to retirement age, which is 60 for women and 65 for men, there is no longer any discrimination between men and women in the pension system for salaried workers.

The Government has, however, made a proposal aimed at establishing a uniform retirement age of 65 for both men and women while at the same time introducing a flexible pension system between 60 and 65 years of age.

This proposal, however, has attracted much criticism and the Government has accordingly decided to request advice thereon from the National Employment Council and the working group entrusted with the study of the status of independent workers.

This Government proposal corresponds to Council recommendation 82/857/EEC of 10 December 1982 relating to the principles of a

community policy on retirement age, according to which the application of a flexible retirement age must be one of the aims of the social policy of the States Members of the European Economic Community

3.2 Equality in respect of unemployment benefits (see annex 3)

Belgian legislation on this point does not make any express distinction between men and women. A ruling (with grounds stated) of the EEC has nevertheless declared on 2 June 1986 that Belgian legislation contains an indirect discrimination against women because one of the categories established for purposes of determining unemployment benefits is that of "cohabitants" which affects mostly women.

What was the distribution of unemployed persons among the various categories entitled to benefits?

Category	Total	Men	Women
Heads of family	21.3 %	35.7 %	9.6 %
Isolated individuals	19.6 %	15.3 %	6.8 %
Cohabitants	68.1 %	49 %	83.6 %
Total	100 %	100 %	100 %

Source ONEM - Survey of 30 June 1985

Cohabitants represent a little less than 70 per cent of the unemployed poplation, and heads of family 21.3 per cent. All the other unemployed persons are isolated individuals.

What was the distribution by sex within the various categories receiving benefits?

Category	Total	Men	Women
Heads of family	75.1 %	24.9 %	100 %
Isolated individuals	44.8 %	55.2 %	100 %
Cohabitants	30.3 % (AR)*	69.3 % (AR)*	100 %
	41 (SR)*	59 (SR)*	100 %

* AR. cohabitants with reduction
SR: without reduction

Source ONEM - Survey of 30 June 1985.

The above table shows that 65.2 per cent of cohabitants are women and 34.8 per cent men.

The regulations applicable to unemployment have jsut been amended and the categories are not defined differently (Koyal Ordinance of 8 August 1986).

The following reforms have been effected: three types of unemployed persons are identified:

(a) Workers who establish that they have lost their sole source of income and have a dependent family.

(b) Workers who establish that they have lost their sole source of income but have no dependent family.

(c) Other workers who are not in a position to establish the loss of a single source of income or the existence of a dependent family.

Unemployment benefit is calculated as follows: The benefit consists of a basic allowance, to which must be added, where appropriate, additional elements depending on the position of the unemployed person.

1. For unemployed who establish that they have lost their source of income and that they have a dependent family, the amount payable is made up of the following elements: a basic allowance of 35 per cent of the average daily remuneration lost, together with a supplement of 20 per cent as family allowance and 5 per cent for the loss of the single source of income (total = 60 per cent).

2. For workers who prove only the loss of their single source of income:

   - For the first year, a basic allowance of 35 per cent of the average daily salary plus a supplement of 20 per cent in respect of adaptation and 5 per cent for the loss of the single source of income.

   - As from the second year, a basic allowance of 35 per cent plus a supplement of 5 per cent for the loss of the single source of income = 40 per cent.

3. For workers who cannot establish that they have lost their single source of income and who have no dependent family:

   - For the first year, a basic allowance of 35 per cent plus a supplement of 20 per cent in respect of adaptation (total = 55 per cent).

   - For the second period (6 months extended by three months for every year of work) a basic allowance of 35 per cent.

   - For the third period: a lump sum of Belgian francs 10,504 unless the person concerned can establish that he has been in salaried employment for 20 years or suffers from an incapacity for work of 33 per cent; in those cases, the basic allowance of 35 per cent is maintained.

What improvements have been introduced into the present system?

1. Unemployed persons, who have one or several children living with them, and receive an income from work or from social security, may henceforth be considered as heads of family if they have other persons dependent upon them. Some 6,000 cohabitants will thus acquire the status of head of family. They are chiefly widows or divorced women one of whose children has an income of his own.

   The description of the category of unemployed persons with dependent family has been broadened. The expression "unemployed with family dependants" now covers every unemployed person who:

   lives together with a legitimate spouse or a person of the other sex with whom he or she forms a de facto family and who does not have either a professional income or a substitute income; cohabitation with other persons, whether they have an income or not, is irrelevant in the matter;

   does not live with a legitimate spouse or person of the opposite sex with which he or she forms a de facto family but lives solely with:

   - one or several children, and in so far as he or she is entitled to family allowances in respect of at least one of them and when none of those children has a professional income or a substitute income in excess of Belgian francs 10,504 monthly.

   - one or more children and other relatives by blood or marriage until the fourth degree inclusive, for whom he or she can claim family allowances in respect of at least one of those children and provided the other relatives by blood or marriage do not have either a professional income or a substitute income.

   - one or more parents by blood or marriage until the third degree inclusive who do not have either a professional income or a substitute income.

   This extension of the concept of an unemployed person with a dependent family will enable a number of unemployed persons previously considered as cohabitants to acquire the status of unemployed persons with a dependent family.

2. Isolated persons are entitled during the third period to a benefit of 40 per cent whereas under the pre-existing system they were only entitled to a lump sum benefit

of a maximum of 642 Belgian francs per day or 16,692 Belgian francs per month and a minimum of 631 Belgian francs per day or 16,406 Belgian francs per month.

The benefits for unemployed persons who actually live alone, i.e. workers who have lost their single source of income and have no dependent family, have thus been increased and are no longer subject to reduction with the passage of time.

The foregoing is a brief account of the amendments and improvements which have been introduced. Practice will show, in the future, whether the newly introduced rules will have the effect of eliminating the pre existing indirect discrimination.

3.3 Equality of rights in respect to sickness and invalidity benefits (see Annex 3)

The Belgian provisions governing sickness and invalidity insurance did not contain until 1986 any indirect discrimination against women.

The Royal Ordinance of 30 July 1986, which entered into force on 1 October 1986, has introduced the new concept of "worker without dependants" to whom a greater invalidity benefit may be granted (after one year's incapacity for work) for the loss of his single source of income.

In this case, the beneficiary must prove either that he lives alone or that he lives exclusively with persons who do not have any income within the meaning of the insurance regulations and who are not considered as dependants. In this case, the benefit is equivalent to 45 per cent of the salary lost, subject to a ceiling. Other isolated persons are entitled to a benefit of 40 per cent. For purposes of the applicaton of this measure, no distinction is made between male and female beneficiaries.

This measure forms part of the Government policy of acknowledging and treating the family as a unit for social security purposes. For indeed, although social security provides for individual benefits, it must also take into account the family situation.

Priority is given to families and individuals who have to live on a single source of income.

These new provisions will have the effect of reducing the benefits of invalids living with other persons. Now, according to recent statistics, there are 59 per cent of women against 41 per cent of men in this category of invalids.

3.4 Equality with regard to benefits in respect of occupational accidents and diseases

The regulations in this matter do not contain any discrimination against women.

3.5 Equality in respect of the right to paid annual holidays

The legislation on paid annual holidays refers to "persons covered", "workers", "labourers", "apprentices" and "seafarers".

These expressions apply both to men and to women.

The basic condition for entitlement to paid holidays and associated benefits is the existence of a contract of work.

These provisions of Belgian law in the matter go in the direction demanded by the Convention, both with regard to ordinary holidays and to supplementary holidays (young workers).

3.6 Equality in respect of social benefits and family allowances (article 13 (a))

3.6.1. Although the family allowances system is not mentioned in Directive 79/7/EEC, Belgian regulations in the matter have been amended so as to eliminate certain forms of discrimination between men and women in that system:

- The special entitlement to family allowances which used to be granted to a woman part-time worker and head of family has been repealed. A monthly lump sum in respect of family allowance is now granted to part time workers, whether men or women, who can prove that they have worked for 16 days or 80 hours per month at least (Law of 30 June 1981);

- The order of priority for granting family allowances has been amended so that the mother now has priority over a stepfather (Royal Ordinance No. 122 of 30 December 1982);

- The amounts of the capitalizing contributions for females and male workers have been brought into line (Royal Ordinance No. 207 of 13 September 1983);

- The entitlement of family allowances under certain conditions for a deserted wife has been extended to the deserted husband (Law of 1 August 1985);

- Family allowances will henceforth be granted to a young man (as to a young woman) who helps or replaces the father or mother in household duties (Law of 14 June 1985).

3.6.2 One inequality, however, remains. Entitlement to family allowances exists only for a widow who is in receipt of a survivor's pension. A recent measure has been adopted which will enable widowers to be similarly entitled to a survivor's pension. This measure will be in force soon.

3.6.3 The Commission of the European Communities is preparing a directive relating to the problems which were not settled by Directive 79/7/EEC.

family allowances will be dealt with therein.

The text of this proposed directive is more explicit and more detailed than that of the Convention. It calls for the absence of all discrimination based on sex with regard to:

- the child in respect of whom the entitlement to allowances arises;
- the persons who are actually entitled to the family allowances in respect of that child;
- the persons to whom the benefits are actually paid.

There has been some discussion as to whether a discrimination exists in Belgian law with regard to the entitlement to family allowances and the payment of benefits.

Entitlement to family allowances usually arises from a professional or similar activity of the person who keeps the child at his home or pays for his upkeep elsewhere. Any worker, whether man or woman, is eligible for such entitlement. Nevertheless, an order of priority has been set for the case in which several beneficiaries keep the child. In this case, priority of entitlement is given to the father, and then to the mother.

In principle, family allowances are paid to the mother of the child. However, if the mother does not actually raise the child, family allowances are paid to the person - man or woman - who fulfils that role.

The Belgian authorities consider that these provisions, which are simply administrative measures for the practical application of the law, cannot be considered as discriminatory.

3.7 Equality of rights in respect of social security for the self-employed

3.7.1 The legal provisions on the social security of self-employed persons are contained in the Royal Ordinance of 27 July 1967, which organizes the social régime of self employed workers.

- The law of 13 July 1985 has amended article 7 of the Royal Ordinance of 27 July 1967 with respect to male and female home assistants.

  These persons fall under the social security régime of self-employed workers only as from the 1 January of the year of their twentieth birthday. The men, however, were covered before that date if married. That provision has now been extended to women;

- The women, if without any source of income (actual or notional), even if 20 years old or more, were only covered on a voluntary basis.

  As with the case previously with regard to men, the women will henceforth be mandatorily subject to the social

security scheme, even if they receive no remuneration (actual or notional).

This provision obviously does not modify in any way the rule whereunder an occasional activity as home assistant does not trigger the application of the social security regime.

With regard to the application of the social security regime Article 12 of the Royal Ordinance has also been amended by the Royal Ordinance of 22 July 1985 on a very important point. Henceforth, a husband who helps or replaces his wife in the exercise of her profession will no longer be able to request social security coverage as self employed in the place of his wife. It is always the spouse operating the business who will be covered.

3.7.2 With regard to benefits for self-employed workers the following measures have been taken:

3.7.2.1. Insurance involving benefits in kind (health care)

A Royal Ordinance of 16 May 1980 has amended the definition of "dependent person". This can now be:

- the spouse;

- the non-salaried person, regardless of sex, who takes care of the household of the insured person.

3.7.2.2. Invalidity insurance

The Royal Ordinances of 23 January, 23 March and 17 June 1982 have introduced the same amendment of the definition of "dependent person" into the invalidity insurance scheme.

Pro Memoria: The effect of this change has been to introduce into the two above-mentioned sectors the provisions now in force for the salaried workers' insurance scheme.

3.7.2.3. Pensions

The law of 15 May 1984 enacted measures to harmonize the various pension schemes.

Book III - Title I - articles 119 and 122.

Every self-employed worker - or his surviving spouse or divorced or separated spouse - is entitled to claim all the benefits deriving from his title, without any distinction as to sex.

Thus, a married woman may, as from 1 January 1984, accrue entitlement to a pension at the household rate with the same rights and under the same conditions as a married man.

Similarly, the above mentioned law enables a widower to claim a survivor's pension with the same rights and under the same conditions as was previously the case only for widows.

The Royal Ordinance of 1 June 1984 modified Royal Ordinance No. 72 of 10 November 1967 relating to the retirement and survivor's pension of self-employed workers, in such manner as to extend the entitlement to survivor's pension to certain widowers.

In the above-mentioned Royal Ordinance No. 72, the concept of "widow of a self employed worker" has been replaced by that of "surviving spouse" in articles 4, 5 to 8, 17 and 17 bis so as to achieve equality between men and women.

The Royal Ordinance of 20 September 1984 amended the Royal Ordinance of 22 December 1967 containing general rules to govern the retirement and survivor's pensions of self-employed workers.

In the context of the present report, attention should be drawn to those articles of the general regulations on pensions in which:

the concept of "divorced wife has been replaced by the expression "the divorced spouse", in particular in articles 2, 92 to 98, 136, 137, 140, 144, 147 and 184;

the term "widow" has been replaced by the expression "the surviving spouse", in particular in articles 7, 8, 9, 25, 28, 49, 50, 56, 63, 97, 108, 109, 110, 121 and 154.

Instances of discrimination which have still to be eliminated

- Article 52 bis of Royal Ordinance No. 72 of 10 November 1967 relating to retirement and survivor's pensions of self-employed workers, enables a self-employed worker, at his choice, to acquire a supplementary retirement pension.

  This freely acquired pension reverts only to the widow; the concept of "widow" ought therefore to be replaced by that of "the surviving spouse". A general revision of the system, however, has become necessary because of other problems independent of the implementation of the principle of equality of treatment.

- The provisions now in force specify a different retirement age for men (65 years) and for women (60 years old).

  The proposal to introduce a "flexible" retirement age between 60 and 65 years of age - for both men and women is under consideration.

3.7.2.4. Family allowances

There is no discrimination in this sector, except for the priority rule regarding the payment of allowances. Priority is given to the father of the child, but the Minister of the Middle Classes may derogate from that rule if the interest of the children so requires (article 13 of the Royal Ordinance of 8 April 1976).

4. Protection of maternity (article 11, 2 and article 4)

Like the European Community directive of 9 February 1976 and the Belgian law of 4 August 1978, article 4 of the Convention specifies that measures aimed at protecting maternity are not considered discriminatory.

Long before Belgium ratified Convention No. 103 (1952) of the International Labour Organisation, it could be said that its social legislation abided in very general terms by the standards of that Convention and, in certain aspects, even went beyond them. That legislation is to be found in Chapter IV of the law of 16 March 1971 on labour legislation, which includes a very great number of provisions both of labour law and of social security law. Some of the benefits in question concern all pregnant women, while others are intended to protect pregnant women who carry on a professional activity. The provisions applicable to all pregnant women relate in particular to pre-natal supervision (free pre-natal consultations, reimbursement of medical expenses by the sickness and invalidity insurance), the maternity allowance on the occasion of the birth of the child and certain facilities regarding transport (dispensation from wearing the safety belt, first-class travel as from the fifth month of pregnancy).

With regard to women at work, it must be pointed out that the extent of the benefits granted varies according to the condition of the woman concerned (worker, employee, official, self-employed, etc.).

It can, however, be stated that, with the exception of self-employed women, all pregnant women at work are entitled to:

- protection from dismissal as from the moment when the employer learns of the pregnancy until one month after the expiry of maternity leave;

- protection from performing tasks which may be harmful for the woman or for the unborn child, and obligation for the employer to give the woman work that does not involve danger and to reinstate her in her previous job after the birth of the child;

- a maternity leave of 14 weeks, 8 of which after delivery are compulsory; the 6 other weeks can be taken either before delivery or after the birth of the child;

- remuneration during maternity leave.

See annex 3.

5. Area of health care specific to women (article 12)

There is no discrimination between men and women with regard to access to health care. Special provisions have, moreover, been taken with regard to the maternity protection.

5.1 Protection of the mother and child

5.1.1 Family planning

In response to the acknowledged right on the part of both individuals and couples to achieve responsible parenthood, appropriate legislation has been adopted. Information centres created and adequate means provided to give concrete help to the population concerned.

There are accordingly:

(a) pre-marital, marital and family advisory centres subsidized by the public authorities;

(b) free consultations on human genetics organized in the universities (seven centres)

(c) free consultations on sterility, available in all the major university centres,

(d) consultations available to detect metabolic anomalies.

5.1.2 Birth control

Information on the subject has been legally available since 1973. Nevertheless, the law does not provide for social security reimbursement of the cost of chemical or mechanical contraceptives.

Information on the various methods of birth control is disseminated, among others, by the family planning centres and by the pre-natal advisory centres approved by the National Institution for the Child as well as by practising physicians.

5.1.3. Abortion

In Belgium, abortion constitutes a criminal offence under articles 348 to 353 of the Criminal Code of 1867, those punishable being the woman concerned, her accomplice and the author. If the latter is a physician or practises a paramedical profession, the penalties are heavier. The application of those legal provisions has given rise in practice to numerous problems for a great many years.

A number of proposals to amend the legal provisions on abortion have been introduced by members of Parliament but they have either been rejected or have not been considered.

The latest proposals on the subject have been those made by Lallemand Michielsens in the Senate on 6 March 1986 and by L. Detiege in the House of Representatives on 19 June 1986.

Mention should also be made of a proposal introduced by the Deputy A. Dillen the effect of which would be to introduce the penalty of suspension for life for physicians who have been sentenced for causing deliberate abortion.

This proposal is at present under consideration in the appropriate commission of the Senate. The declaration made by the Government on the subject specifies that a parliamentary debate must take place thereon: "the Government considers that it is incumbent upon Parliament to examine the possibility of amending articles 348 to 353 of the Criminal Code, and doing so with due respect for the freedom of conscience of all".

5.1.4 New medical techniques in the matter of human reproduction

Women, like men, benefit from new techniques, such as that of transplanting organs. They are, however, more particularly involved in the new techniques relating to reproduction such as:

(a) Artificial insemination by anonymous donor

This method is in frequent use at present in Belgium. It is practised with a sperm bank by more than 10 institutions (universities, hospitals and medical groups).

As for the legal provisions applicable, there are no specific rules in positive law. A provision on the subject has been included in the draft law on filiation which is at present under consideration by the Senate. The law on organ transplantation, however, excludes from its application gifts of sperm and ovules.

(b) Fecundation in vitro

This is being practised in Belgium for some two years now in four institutions (universities, hospitals and medical groups). The degree of success has been limited (10 to 25 per cent) because of the technical difficulties to be overcome. There are no applicable legal rules in the matter.

(c) Transfer of embryos and gift of ovules

The practice in the matter has only just begun and is unregulated.

5.1.5 Preventive care of the mother and child

This care is available to the population as a whole:

(a) in private practice, by gynaecologists, obstetricians and paediatricians;

(b) in the public services.

The official services of the National Institution for Children provide free of charge preventive health care for mothers and children by means of pre-natal consultations, consultations for babies and consultations for children from three to six, supervision services for children at home, and especially equipped health care vehicles.

The consulting rooms are organized by private initiative and subsidized by the public authorities; the other services (supervision of children at home and health care vehicles), on the other hand, are organized by the public services and serve regions where the system of consulting rooms is not adequate (rural population areas and areas with a low population density). These services are available to the whole population.

Lastly, more than 1,300 medico-social workers spread over the whole territory provide psycho-medico-social guidance to families who apply for it.

5.2 Violence against women

Problem of women who are beaten:
Following certain private initiatives, reception centres for women who are beaten have been opened. They are intended for receiving women in distress and seeking for them and with them the best solution for their problems. There are several reception centres, both in Flanders and in Wallonia, as well as in Brussels, all of them subsidized by the public authorities.

Sexual violence:
A proposal has been submitted to Parliament for a law aimed at broadening the concept of "rape" as defined at present in the Criminal Code; this will, in particular, have the effect of facilitating proof of rape and of making the proceedings less trying for the victim. This proposed text is at present under consideration in the House of Representatives.

A number of women's associations carry out activities of information and assistance for women, with modalities which vary from one community to another.

These are, for example, reception homes for women who have been beaten, SOS rape, consulting centres for separated or divorced women.

6. Protection of the health of women workers
(see Chapter I, para. 6.2)

6.1 Pursuant to the EEC Directive on equality of treatment, the validity of the legislation protecting women workers, which had provisionally been considered as non-discriminatory, has been re-examined with respect to certain occupations; the Commission on the Employment of Women has handed down a number of rulings in the matter

(see the list in Basic Documentation, annex 1, page 93). These studies have led to the repeal, in article 1 of the Royal Ordinance of 24 December 1968 relating to women workers, the prohibition to employ women workers in tasks involving the use of white lead paint or in the occasional or regular transport of loads exceeding a maximum weight (27 and 50 kg respectively). The Royal Ordinance of 16 April 1977, which contained the same protective provisions for women members of the armed forces, has been amended accordingly. These innovations supplement those introduced by the law of 4 August 1978 itself (article 153) by repealing a number of discriminatory regulations.

It has, however, been felt necessary to reintroduce into the Royal Ordinance of 24 December 1968 a specific provision concerning pregnant women, to protect them against the risks inherent in the transport of heavy loads. The Commission on the Employment of Women has dealt with this question in its advice No. 43 of 25 June 1986.

6.2 As for the prohibition of night work for women, further derogations are from time to time added to the list authorized by article 36 of the law of 16 March 1971 on labour legislation, a list which appears in the Royal Ordinance of 24 December 1968; the derogations, however, relate to specific functions, for which an exception is justified because of their specialized nature. Any general repeal of the prohibition would require Belgium to denounce Convention No. 89 of the ILO, or the amendment of that Convention which is on the agenda of the European Communities and of the International Labour Office itself. Meanwhile, adjustments are being sought to adapt to the present situation; the Commission on the Employment of Women has set up a working group to examine the problem.

In addition, the Belgian Parliament is expected to adopt shortly a proposed law to amend article 36, paragraph 2 of the law of 16 March 1971 in such a way as to authorize the King to reduce, for women occupied in transport tasks, the 11 hour rest interval which is at present compulsory between two work periods.

7. Equality in the areas of economic and social life

7.1 Right to family allowances

See: Chapter III, paragraphs 3.6 and 3.7.2.4.

7.2 Right to obtain credit

With regard to the entitlement to bank loans, mortgage loans and other forms of credit, there is complete equality between men and women.

7.3 Right to participate in recreational activities, sports and all aspects of cultural life

There is no discrimination in this matter.

With regard to the practice of sport, positive developments have been noted as to the number of women paticipating in it.

This does not however mean that efforts must not be pursued to bring about fuller integration of women in sports activities.

8. Women in agriculture (article 14)

8.1 The existing provisions which regulated agricultural activities make no distinction between agricultural operators based either directly or indirectly on sex, by reference in particular to marital status.

This is the case, among others, with the Royal Ordinance of 3 March 1986 relating to assistance to investment and settlement in agriculture, which provides for identical entitlement for men and women operators, mainly with regard to agricultural subsidies and loans.

In addition, the law of 12 July 1979 which created agricultural partnerships contains an express provision allowing husband and wife who are agriculturists to form the partnership.

As for farm tenancies, the law of 4 November 1969 does not provide for any difference in treatment between men and women tenants.

Moreover, women farmers are on a footing of equality with men with regard to access to farmers' representative organizations as well as to the National Council for Agriculture and the provincial chambers of agriculture.

It must also be noted that the Ministry of Agriculture has a farm home economy service, consisting of farm housework advisers distributed in various provinces with the task, in particular, of providing information and advice in socio-economic matters both to the women operators and home assistants and to the wives and families of farmers.

The application of the principle of equality of men and women, in particular with regard to the free choice of the profession of farmer, is moreover not calculated to detract from the specific rights of women in respect of health protection.

In the matter of social security, women farmers, like other self employed women workers, benefit from the social security regime of self-employed workers (see Chapter III, paragraph 3.7). For salaried women workers employed in farms, night work is not permitted between 23 hours and 5 hours (article 5 of the Royal Ordinance of 24 December 1958 embodying implementation measures for Royal Ordinance No. 40 of 24 October 1967 on women workers).

8.2 Problems encountered by spouses of farm operators who work with them

The position of these spouses is marked by the absence of any professional status. As it happens, these are women to the extent of 98 per cent. This means that, notwithstanding their professional activities in the family enterprise, they do not enjoy the protection

and the rights to which persons exercising a professional activity are entitled.

There are three aspects to this problem.

The first is the legal aspect.
The absence of a professional status means that there is no legal basis for these spouses to claim the profits of the enterprise or the title to the property on the tools and materials thereof. This discrimination becomes apparent mainly in cases of dissolution of marriage as a result of death, divorce or separation. There will be no need to reform the matrimonial property system when official recognition is granted to the status of the spouse helping in the enterprise on the same level as the head of the enterprise.

The second aspect relates to social security. Spouse helpers are entitled to the benefits deriving from sickness insurance, family allowances and pensions through the insurance taken out by the spouse who is the head of the enterprise. Occupational risks connected with disability from work and maternity on the part of the spouse helper are not insurable in the framework of the social security system of self-employed workers. The existence of this problem has been recognized in principle but without leading as yet to any amendment of the law. One of the difficulties involved results from the absence of statistical data on the number of spouse helpers, which makes it impossible to make a precise estimate of the financial implications of the measures to be taken.

Lastly, spouse helpers encounter material problems when endeavouring to represent the enterprise in external relations. These spouses find it difficult to participate in vocational training, partly because of the limited number of training institutions and partly because of the additional burdens resulting from family tasks which women must often perform alone. This last factor is partly responsible for the limited representation of spouse helpers and self-employed women in the executive bodies of professional organizations and co-operatives. Certain prejudices regarding the participation of women in decision-making become apparent in these organs. In order to remedy this gap affecting women who participate in the operation of family enterprises, it will be necessary not only to initiate legislation but also to promote initiatives that will create a greater awareness of the problem and lead to a change in mentalities.

IV. EQUALITY OF RIGHTS IN CIVIL AND FAMILY MATTERS

1. Equality of civil rights

1.1 Equality before the law

Articles 6 and 6 bis of the Belgian Constitution specifically guarantee the equality of all Belgians before the law (see I). Moreover, article 26 of the International Covenant on Civil and Political Rights specifies that "all persons are equal before the law and are entitled without any discrimination to the equal protection of the law".

1.2 Legal capacity

Full legal capacity is recognized without restriction to women by article 8 of the Belgian Civil Code: "All Belgians are entitled to civil rights" as from the age of civil majority, i.e. 21 full years (article 388 of the Code).

This equality between men and women is a matter of public policy. No derogation is possible therefrom; it is even part of the Belgian international public order.

This has not always been the case.

Under the Civil Code of 1804, married women suffered from an almost complete legal disability.

The first important legislative change in this respect was the law of 20 July 1932 on the rights and duties of spouses, which did away with the gravest abuses, limited the marital authority of the husband and gave the wife who carried on a professional activity the right to manage herself the income accruing from her work. The legal incapacity of married women, as well as marital authority, were only abolished by the law of 30 April 1958 on the respective rights and duties of spouses. Since that date at least, women married under the separate property system enjoyed the same powers as their husbands on their own property; with regard to women married under the common property system, however, their legal capacity was acknowledged only with the enactment of the law of 14 July 1976 relating to the respective rights and duties of spouses and to matrimonial property systems. This law acknowledges henceforth the total equality of the two spouses. It makes provision for identical rights and obligations for them in both their property relations and their personal relations, regardless of the matrimonial property system chosen by them (subject to the reservation made by Belgium to article 15, paragraphs 2 and 3 of the Convention, which is explained by the fact that the Belgian law of 1976 allows spouses who were already married before its entry into force to maintain in full their pre-existing matrimonial property system).

In practice, this means that, under the community system which applies to spouses who did not expressly choose another matrimonial

property system, each of them has exclusive control of his or her own property and that, in principle, the two spouses manage their common property jointly.

Accordingly, it is no longer possible for a husband to dispose, without his wife's consent, of an item of common property.

A spouse's own property consists of items of property owned before the marriage together with those acquired by succession or gift during marriage.

Common property consists of all the items of property acquired during marriage, together with all professional gains and income that derives from each of the spouses' own property. Nevertheless, the professional gains of each of the spouses, although regarded as common property, remain under the exclusive management of the spouse concerned so long as they are not merged with the other common property. Similarly, property required for the exercise of a spouse's profession is managed exclusively by that spouse.

This matrimonial property system applicable by law, or any other system whose clauses are settled by the two spouses, may be amended during marriage by agreement of the spouses. If one of the spouses' actions endanger the family fortune, the other may apply to the court for a separation of property.

The law of 14 July 1976, moreover, introduced new measures for the protection of the family and has strengthened the concept of solidarity between spouses. The measures in question include:

1. The married home is determined by agreement of the two spouses. In the event of disagreement, the husband's decision prevails.

2. None of the spouses may, without the consent of the other, dispose of the real property which serves as the main home of the family, or of the furniture therein. The lease on the family home also belongs jointly to both spouses.

3. Each of the spouses is jointly and severally liable for the debts contracted by the other for the needs of the household and the education of the children.

4. Each spouse collects alone his or her income and disposes freely thereof after having discharged his or her obligation to contribute to the expenses of the household.

5. In the event of the abuse of his or her rights by one of the spouses, the other has the remedy of going to court.

There remain problems, however, for the wives of farmers who operate with their husbands an agricultural enterprise, and for the wives of tradesmen who operate with their husbands a commercial enterprise.

Although since the law of 13 July 1976 the spouses who carry on jointly the same professional activity participate together in any decision which is not a mere act of administration or management (article 1427 of the Code), it would appear that in practice that provision - which seems to be little known - is not often applied or is ill adapted to certain situations.

Third parties who enter into contract with the husband who is a farmer or a tradesman will be much more prepared to do business with him alone if he appears as the sole owner of the agricultural or commercial enterprise. Now, it is more often than not the case that the husband is the sole tenant of the farm or sole nominee of the commercial registry entry. It is true that the wife can, under certain conditions, bring about the annulment of operations with which she has not concurred. In practice, however, she will only have recourse to such proceedings when the marriage has broken down.

Management operations include the purchase of working tools, the price of which is usually paid from common funds. Such working tools are, however, regarded as the professional's own property and subject to his exclusive management. It is thus possible for the community property to be substantially depleted for the benefit of the husband's own property. When the community is dissolved as a result of a divorce or of the death of one of the spouses, the husband (or his heirs) will owe a "recompense" to the community in an amount based on the value of the working tool at the time of the death or of the registration of the divorce. This recompense can be very small compared to the purchase price - which may have been very high - of the working tool. One has only to think of the cost of a tractor, a combine harvester or a computer.

When a widowed wife wishes to continue with an agricultural or commercial operation after the death of her husband, she is faced with the problem of the specific character of the working tools involved. Under the law, she is entitled to a life interest in these tools (article 745 bis, paragraph 1 of the Civil Code) but will not have the right to sell them, even when their replacement is essential.

Two solutions are possible:

- to do away with the specific character of the working tools of the operator of an agricultural or commercial enterprise whenever his wife shares in his professional activities;

- and/or establish a legal presumption that the [illegible]

1.3 Freedom of movement and choice of residence

In Belgium, freedom of movement is enjoyed without restriction by both men and women. This freedom is one of the components of individual freedom, guaranteed by article 7 of the Belgian Constitution.

This concept is not expressly mentioned in Belgian legislation because it goes without saying and is moreover guaranteed by international law under article 12, paragraphs 1, 2 and 3 of the International Covenant on Civil and Political Rights.

Choice of domicile is also free.

As regards the family home, the husband's decision is no longer preponderant since the law of 14 July 1976.

Article 214 of the Civil Code specifies that "The family home is selected by joint agreement of the spouses. Failing agreement between them, the magistrate shall decide on the matter in the interests of the family.

2. Equality in the matter of family law

2.1 Right to contract marriage

The provisions of article 16 of the Convention relating to marriage are to be found also in other international legal instruments ratified earlier by Belgium.

The International Covenant on Civil and Political Rights specifies as follows in article 23, paragraphs 2 to 4.

"2. The right of men and women of marriageable age to marry and to found a family shall be recognized.

3. No marriage shall be entered into without the free and full consent of the intending spouses.

4. States parties to the present Covenant shall take appropriate steps to ensure equality of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution. In the case of dissolution, provision shall be made for the necessary protection of any children."

Moreover, article 12 of the European Convention for the Protection of Human Rights and Fundamental Freedoms provides that:

in certain contracts of employment or work: as a rule they were directed solely at women and the rulings of the Belgian courts were divided as to their validity. The law of 21 November 1969 has ended this controversy by declaring null and void any clause in a contract of work which states that marriage or maternity can have the effect of terminating the contract.

2.2 Choice of partner and free consent of marriage

Men and women are free to choose their marriage partners and have the right to marry with their full and free consent: article 146 of the Civil Code specifies in fact that "there can be no marriage without consent".

According to article 144 of the Code, a man must be 18 years of age and a woman 15 years of age. Before they are of full age, however, i.e. before completing their 21st year, neither a man nor a woman can marry without the consent of their father and mother: in the event of dispute between the two parents (article 148 of the Code) they can apply to the Juvenile Court.

Consent to marriage must emanate from the person of each of the future spouses and the solemn nature of the exchange of consent draws their attention to the importance of the legal effects that will emerge from their declaration of consent. The presence of a public officer is also a safeguard with regard to the freedom of consent: the more apparent defects of consent (drunkenness, insanity, etc.) will be detected by him and his presence will protect the future spouse against any violence or direct threat.

In the event of marriage with an alien partner, there is also complete equality between men and women. The future spouses must comply with the requirements of their personal law on pain of nullity of the marriage (article 170 and 170 ter of the Civil Code).

2.3 Rights and responsibilities of spouses during marriage and in the event of its dissolution

The two spouses have the same rights and the same duties during marriage (see IV 1.2, legal capacity). This equality during marriage subsists in the event of its dissolution: all the grounds of divorce known to Belgian law are available to either spouse and thus are treated in the divorce proceedings on a footing of strict equality; in particular, since the law of 28 October 1974 all discrimination with respect to the grounds for divorce has been abolished: an isolated act of adultery, without distinction as to the place of commission or of the sex of the guilty party, constitutes grounds for divorce for the other spouse.

The principle of equality between spouses, which has been recognized since 1958, had to lead in all logic to the recognition of the equality of the two parents. Accordingly, the law of 8 April 1965 on the protection of youth replaced paternal authority by parental authority. Since that law, the father and the mother have exercised jointly their powers over their children; these rights, however, are granted to them solely for the purpose of performing, in the best interests of their children, their obligations of maintenance and education. In the event of disagreement between the two parents, it was the father's decision which prevailed, but the mother could object by applying to the Juvenile Court.

The law of 1 July 1974 has brought the father's predominance to an end. Today, the equality of the two parents is complete. Each of them exercises parental authority during the marriage. If one of them considers that the other's decision is not in conformity with the interests of the child, he or she may resort to the Juvenile Court.

In the event of a de facto separation of the spouses, the law provides for a specific solution: that of entrusting the administration of the person and the property of a minor child to the spouse which has the "material custody". In all cases, either spouse has always the right of recourse to the Juvenile Court, but solely in the interests of the child (article 373 of the Civil Code);

In the event of a divorce, "regardless of the person to whom the custody of the children is entrusted, the father and mother retain the right to supervise the upbringing and education of their children and have a duty to contribute to it in proportion to their means" (article 303 of the Civil Code).

Equality between the right of the mother of a child born in marriage and the right of the mother of a child born out of wedlock

We must recall that in Belgian law, the rules of evidence regarding maternal filiation are different according to whether the mother of the child is married or not.

If the mother is married, maternal filiation is evidence in principle by the birth certificate. In exceptional cases, that evidence may result from the possession of status of legitimate child and, in even more rare cases, by means of witnesses in the absence of the two above mentioned forms of evidence.

Until now, the maternal filiation of a child born out of wedlock can only be proved by an act of recognition by the mother or by a judgement obtained by a child who has instituted legal proceedings

Under this proposal, proof of childbirth will constitute proof of maternal filiation, regardless of whether the child is born in or out of wedlock. This has been called automatic evidence of maternal filiation. Equality will thus be established between the married mother and the single mother as regards proof of her ties of consanguinity with her child.

Very recently, the Civil Code provisions which govern declarations of birth have been amended by the law of 30 March 1984 (articles 55, 56 and 57). It is no longer the father alone who must declare the birth of the child. This duty is now incumbent also upon the mother. Henceforth, the declaration must be made either by the father, or by the mother, or by both parents. The time limit for doing so, which used to be three days counted from the birth, has been extended to 15 days so that the mother may be able to declare the birth to the Civil Registry Office. Penalties are laid down for the failure to make the declaration (article 361 of the Criminal Code).

A single mother, in the same way as a married mother, has the obligation to declare the birth, subject to penalties under criminal law. It may well be asked whether this declaration is not equivalent to acknowledgment of the child's maternal relationship. The problem has in any case been raised. If the question is answered in the affirmative, an express act of acknowledgment by the unmarried mother would no longer be necessary to establish filiation in the eyes of the law.

The proposed reform of the filiation provisions will also specify that a married mother may dispute the paternity of the husband. In the law as it now stands, it is only the husband who can disown paternity by bringing in a suit in disownment of paternity.

With regard to the parental authority of an unmarried mother, it varies according to whether she has acknowledged the child or not and, if she has done so, whether the father has recognized the child or not. If she has not acknowledged the child, she has neither any rights nor any obligations regarding him. If she alone has acknowledged the child, she alone exercises parental authority. If both parents has recognized the child, they may both exercise parental authority severally.

2.5 Family planning

In Belgian law, men and women are free to decide on the number of their children and the spacing of births. Since the law of 9 July 1973, which repealed the last three paragraphs of article 383 of the Criminal Code, the manufacture and sale of contraceptives, and the information thereon and advertising thereof are no longer the subject of special legal provisions.

adoption of children. We refer in this respect mutatis mutandis to what has been said in IV, 2, 4 parental authority, without entering into details regarding these institutions.

When the husband dies before the birth of the child, there are legal provisions on the supervision of the pregnancy. These provisions of course only concern women.

2.7 Choice of family name

2.7.1 Position of the two spouses

A married woman always retains legally her maiden name. During married life, there is a usage whereby she often uses the name of her husband or her maiden name with that of her husband attached.

The Civil Code, however, deals in article 206, paragraph 2 with the question of the use of the name of the other spouse in professional dealings "Neither of the spouses may make use in his or her professional dealings of the name of the other without the latter's consent".

Such consent may only be withdrawn for grave reasons and the withdrawal may be impugned by resorting to the Court of First Instance or, in the event of urgency, to the President of the Court. Legal opinion is unanimous in holding that, in the event of legal dissolution of the marriage, the spouse concerned must in principle resume his or her name and drop the name he or she had been authorized to use by the ex-spouse, failing the latter's consent (which will always be precarious); some hold the view that the ex-spouse's name may also be retained in cases where it has acquired renown, creating thereby for the spouse using it a right of intellectual property and converting the name either into a pseudonym or into a commercial firm name. In any event, the law does not contain any express provisions on the situation arising after the dissolution of the marriage and article 216 relates only to proceedings instituted during married life.

2.7.2 Position of the children

This remains a field in which the equality of the two parents has not been achieved. There is still a discrimination against a married mother, who cannot transmit her name to her child who must always bear the family name of the father.

As for a child born out of wedlock and recognized by both parents, the family name will also be that of the father, even if the mother was the first to acknowledge the child. In that case,

are intended to respect both the freedom of the parents and their equality of rights.

Drawing inspiration from article 16, paragraph 1 (g) of the Convention, a number of Belgian members of Parliament have put forward proposals for legislation which are at present under consideration by the Justice Commission of the House of Representatives. The Commission on the Status of Women was asked to give its advice thereon in June 1984.

2.8 Choice of an occupation

According to article 216, paragraph 1 of th Civil Code, "Each of the spouses is entitled to practise a profession without the prior consent of the other". The latter spouse, however, may apply to the Court of First Instance to prohibit that exercise if it considers that the profession in question is calculated to cause grave harm to the moral and material interests of the couple or of the minor children. The legislation in force before the law of 14 July 1967 already contained that provision but the new law adds that the court may make the practise of the profession subject to the prior modification of the matrimonial property system applicalbe to the couple: certain occupations involve risks (for example, a new trade) and may affect adversely the financial position of the family unless measures such as the adoption of the separate property system are not taken.

The possibility of prohibiting the exercise of an occupation now exists for all professions, including the Civil Service and the diplomatic corps; there is only one exception, namely the case where one of the spouses fills a public office such as that of member of Parliament or municipal councillor.

2.9 Property rights during marriage

See IV, 1, 2 Legal capacity.

The law of 14 July 1976 has given an absolute character to the principle of the equality of the spouses in the matter of property rights as well.

In practice, this means, under the community regime, which applies automatically to all couples who have not expressly chosen another matrimonial property system, each of the spouses has exclusive powers over his or her own property (article 1425 of the Civil Code) and administers, in principle, jointly with the other spouse all common property (articles 1415 to 1424 of the Civil Code). It is therefore no longer possible for the husband to dispose of (sell,

Each of the spouses collects alone his or her income and disposes of them freely after having complied with the obligation to contribute to the expenses of the household (article 217 of the Civil Code).

Each of the spouses is entitled to open in his name, without the consent of the other, any deposit account or securities account or to rent a safe (article 218 of the Civil Code).

In Belgian law, there is no discrimination between men and women with regard to the right to contract a bank loan, or a mortgage loan or to obtain any other form of financial credit (see below: capacity).

In the event of abuse of his or her rights by one of the spouses, the other can apply to the court, introducing if necessary an action in nullity of the act thus performed (articles 223 and 224 of the Civil Code).

2.10 Engagement and marriage of children

In Belgian law, engagement is not legally recognized. It does not give rise by itself to any obligations because the law intends to protect the freedom to marry and hence the power to break a promise of marriage unilaterally; an engagement is accordingly a purely factual situation. Nevertheless, the circumstances in which an engagement is broken may provide grounds for an action for damages.

The marriage of children who have not yet attained the marriageable age laid down by law in article 144 of the Civil Code is legally non-existent, unless an express dispensation is granted by the King in the case of pregnancy of the future wife (article 145 of the Code).

As for the difference existing between the legal age for marriage for boys and for girls, it must be noted that this is the only distinction based on sex to be found in the Belgian law on marriage.

This condition as to marriageable age is based on the statistical observation that women develop earlier than men physiologically.

2.11 Registration of marriages

On the day on which a marriage is celebrated, the Civil Registry officer receives the declaration of consent of the future spouses; he declares them united by the bonds of marriage and draws up a record thereof on the spot. The record is entered on the Civil Status Registry.

TABLE 4

HOUSE OF REPRESENTATIVES: NUMBER OF WOMEN ELECTED BROKEN DOWN BY PARTY

	1985		1981	
	Women/men	%	Women/men	%
CVP	6/49	12.2%	6/43	13.9%
SP	2/32	6.3%	1/26	3.9%
PVV	1/22	4.5%	2/28	7.1%
VU	1/16	6.3%	0/20	-
AGALEV	1/4	25 %	2	
PSC	2/20	10 %	18	
PRL	1/24	4.2%	24	
FDF	1/3	33.3%	2/8	25 %
PS	1/35	2.8%	1/35	2.9%
VL.BLOK	0/1	-	1	
ECOLO	0/5		4	
RAD.UDRT	0/1	-	3	
	16/212	7.5%	12/212	5.6%

SENATE, NUMBER OF WOMEN ELECTED BROKEN DOWN BY PARTIES

	1985		1981	
	Women/men	%	Women/men	%
CVP	7/42	16.7%	6/40	15 %
SP	2/28	7.1%	2/21	10.1%
PVV	2/19	10.5%	1/23	4.4%
VU	-/12	-	1/17	5.9%
AGALEV	2/3	67.0%	1/1	100 %
PS	4/33	12.1%	3/31	9.7%
PRL	3/23	13.0%	3/20	15 %
PSC	1/18	5.6%	3/16	18.8%
ECOLO	-/3	-	1/4	25 %
FDF	-/2	-	/6	-
RAD.UDRT	-	-	-/1	-
EPB/PCB		-	-/1	-
	21/183	11.5%	21/181	11.6%

PARLIAMENT, NUMBER OF WOMEN ELECTED. TOTAL FOR ALL PARTIES

	1985		1981	
	Women/men	%	Women/men	%
	37/395	9.4%	33/393	8.4%

TABLE 1:

PARTICIPATION OF WOMEN IN THE EXECUTIVE BRANCH

I. NATIONAL GOVERNMENT

		MEN	WOMEN
1975	Ministers	21	1
	Secretaries of State	8	0
1980	Ministers	27	2
	Secretaries of state	8	2
1981	Beginning of the parliamentary legislature		
	Ministers	15	0
	Secretaries of State	6	4
1985	End of parliamentary legislature		
	Ministers	15	0
	Secretaries of State	7	3
Oct. 1985	Ministers	15	0
	Secretaries of State	10	3

II. COMMUNITY AND REGIONAL EXECUTIVES

	1981		1985		Oct. 85	
Ministers	M	W	M	W	M	W
Flemish Executive	8	1	8	1	8	1
Executive of the French-speaking community	3	0	3	0	3	0
German-speaking community	-	-	2	0	3	0
Wallon Executive	5	0	5	1	6	0

Note: In the Brussels region, one Minister and 2 Secretaries of State are incorporated into the national Government (Table 1).

Source: Advisory Commission on the Status of Women

List of annexes relating to the implementation of the Convention on the Elimination of All Forms of Discrimination Against Women

•Annex 1: Basic documentation. Ministry of Employment and Labour. December 1985. Brought up to date until 1 January 1987, plus EEC Directive 86/613.

•Annex 2: Folder: Sex colleague? Ex colleague? Secretariat of State for Social Emancipation.

•Annex 3: Women in the Val Duchesse Plain: Information on unemployment, sickness and invalidity, maternity allowances and pensions. (June 1986). Secretariat of State for Social Emancipation.

•Annex 4: Women in Belgian society (March 1987) Secretariat of State for Social Emancipation.

•Annex 5: How to formulate a non discriminatory vacancy notice

•Annex 6: Equality of treatment between men and women. Ministry of Employment and Labour

•Annex 7: Positive measures in favour of women. Pilot project in R.T.T. Commentary by the Secretariaty of State for Posts Telegraphs and Telephones and the Secretary of State for Social Emancipation.

Annex 8: Matrimonial Property Systems. pp. 48-49. Transitional provisions.

•Annex 9: Advice No. 43 by the Commission on the Employment of Women on the subject of protective legislative measures: the transport of loads by pregnant women workers (June 1986).

•Annex 10: Pamphlet issued by the Commission on Employment of Women, No. 8, pp. 11-34: Article on the judicial remedies for breaches of the principle of equality of remuneration and treatment.

•Annex 11: Belgian Nationality Code.

Annex 12: Collective contract of work No. 38 of 6 December 1983

ANNEX 8

Article 3. Transitional provisions

Article 1. The provisions of the present law shall apply, in accordance with the rules set forth hereunder, to spouses married before the date of its entry into force who have not drawn up any matrimonial property settlement or who have adopted the community system after having initially chosen the separate property system or the dowry system comporting a partnership in acquisitions, governed by articles 1498 and 1499 of the Civil Code:

1. For a period of one year counted from the entry into force of the present law the spouses may declare before a notary public that they intend to maintain unchanged their matrimonial property system, whether derived from the law or from their agreement.

2. Failing such declaration, spouses who have not entered into a matrimonial property settlement or who had adopted the community system shall, on the expiry of said period, be subject to the provisions of articles 1398 to 1450 relating to the system applicable by law, without prejudice of the clauses of their marriage settlement which contain advantages for both spouses or for one of them.

They may, however, without waiting for the expiry of the above-mentioned period, declare before a notary public that they intend to submit immediately to the provisions governing the system presumed by law.

3. Failing the declaration mentioned in paragrapn 1 above, spouses who had adopted the system of community limited to acquisitions or the universal community system shall, on the expiry of the above-mentioned period, be subject to the provisions of articles 1415 to 1426 in all matters relating to the administration of the community and of their respective own property, as well as to those of articles 1408 to 1414 setting forth the debts which are common and regulating the rights of the creditors.

The same shall apply to spouses who have chosen the separate property system or the dowry system comporting a partnership in acquisitions governed by articles 1498 and 1499 of the Civil Code, but this shall apply only to that partnership.

4. Spouses may, by mutual consent, wind up the community and divide between them the community property or the property included in a partnership of acquisitions, and shall do so in conformity with the rules of the Civil Code applicable before the date of the entry into force of the present law. In that case, the time limits specified in articles 1456 and 1457 of the Civil Code for the benefit of a married woman who wishes to reserve the right to renounce the community, shall begin to run from the date of expiry of the time-limit of one year set forth in paragraph 1 above.

5. Failing the husband's consent, the married woman concerned may apply to the Court of First Instance for an order of liquidation

of the community. In that case, the time-limits set in paragraph 4 shall cease to run from the date of lodging that application until the court's decision acquires final force. The inventory of the community shall be made in the presence of the husband or after he has been duly invited to participate therein.

Once the liquidation is completed, the spouses mentioned in paragraph 4 above shall be subject to all the provisions governing the matrimonial system presumed by law, without prejudice to any clauses in their marriage settlement agreement which contain advantages for both spouses or for one of them.

Article 2. Within two months of drawing up the relevant instrument, the notary public shall transmit an extract from the declaration mentioned in numbers 1 and 2 (second paragraph) of article 1, or a certificate attesting that the community (whether established by law or by agreement) has been liquidated, both to the Civil Registry officer mentioned in paragraph 2 of article 1395 and to the notary public who holds the original of the marriage settlement, whereupon the latter shall be under a duty to perform the obligations imposed by that article.

ANNEX 12

11-13 - COLLECTIVE CONTRACT OF WORK NO. 38 OF 6 DECEMBER 1983 CONCERNING THE RECRUITMENT AND SELECTION OF WORKERS

CHAPTER I - SCOPE OF THE COLLECTIVE CONTRACT OF WORK

Article 1. The purpose of the present contract is to lay down rules for the recruitment and selection of workers and to set forth the obligations of the signatories regarding the observance of a certain number of rules of conduct.

CHAPTER II - SCOPE OF APPLICATION AND DEFINITIONS

Article 2. For purposes of the application of the present collective contract, the following shall have the meanings set forth hereunder:

Employer: An individual or body corporate who enters the labour market to find candidates for a vacant post.

Candidate: An individual who, following the publication of a vacancy notice, tries to obtain the job mentioned in that notice.

Recruitment: The various activities carried out by an employer or on his behalf and relating to a vacancy notice.

Selection: The various measures taken by the employer or on his behalf to recruit personnel.

Commentary

Recruitment and selection also comprise the activities carried out for purposes of building up a reserve for recruitment.

CHAPTER III - DUTIES OF THE EMPLOYER WITH REGARD TO RECRUITMENT AND SELECTION OF WORKERS

1. Cost of the selection procedure

Article 3. The expenses relating to tests and examinations organized in the framework of the selection procedure shall be borne by the employer, if he has ordered them.

Commentary

The purpose of this article is to ensure that candidates are not made to bear themselves the cost of the tests and examinations carried out in the framework of the selection procedure. This applies

more especially to the tests and examinations carried out by experts at the employer's request.

In addition, this article does not prejudice the provisions on the functions of labour doctors as set forth in the general regulations for the protection of workers.

2. Delivery of an attestation

Article 4. If a candidate who is subject to control under the unemployment regulations participates in a selection test, the employer must deliver at his request an attestation indicating the date and time of the reporting to the test and, where appropriate, the reason for which he has not been recruited.

Commentary

In accordance with article 76, 4° of the Ministerial Decree of 4 June 1964 relating to unemployment, an unemployed person is dispensed from reporting to the municipal control office when his absence is clearly justified by the search for employment during the hours of control. In that case, the person concerned must produce an attestation from the employer indicating the time at which he reported and, where appropriate, the reason for which he was not employed.

The purpose of this article is to impose on the employer the obligation to deliver such an attestation when a candidate who is unemployed has reported in order to participate in a selection test, and the candidate requests the attestation.

3. Return of documents

Article 5. When a candidate is turned down, the employer shall return to him, within a reasonable time, the documents attached to his application.

Commentary

It sometimes happens that a candidate forwards to the employer, together with his application for the post, certain documents in respect of which he has incurred expenses such as diplomas, certificates, publications, letters of recommendation, photographs, etc.

If the candidate does not obtain the job, the employer must hold these documents at his disposal for a reasonable period of time, so that the candidate can use them later in subsequent applications.

4. Submission stamped and certified copies of documents

Article 6. An employer may not require the submission of stamped and certified copies of diplomas, certificates, attestations or other documents until the completion of the selection procedure.

Commentary

The submission of stamped and certified copies of documents can involve considerable expenses for the candidate.

For this reason, such copies may not be required until it is certain that the candidate will be employed.

The fact that certified copies cannot be required from the beginning does not deprive the employer of the faculty of requesting ordinary copies. For indeed, there are posts for which it is important for the employer to have certain assurances from the outset. 1/

CHAPTER IV - COMMITMENTS OF THE CONTRACTING PARTIES REGARDING THE OBSERVANCE OF THE RULES OF CONDUCT ON RECRUITMENT AND SELECTION

Article 7. The Contracting Parties undertake to make use of their authority over their members to ensure that the latter duly observe, in the matter of recruitment and selection, the rules of conduct set forth in articles 8 to 18.

1. Information to be given to the candidates

Article 8. The employer must furnish to the candidates sufficient information on the job he is offering.

The vacancy notice must contain the following indications:
- The type of job;
- The requirements for filling the post;
- The duty station for the post, except where it cannot be determined in advance or in the case of duties which are not connected with a specific place of work;
- Where appropriate, the employer's intention to build up a recruitment reserve;
- The mode of applicaiton.

Commentary

(a) The candidates must get from the employer all the information necessary to form an opinion on the job offered and to take a decision with the knowledge of the facts.

(b) An employer who publishes a vacancy notice is under a duty to supply a minimum of information.

Thus, he must inform candidates of the nature of the job and the requirements laid down for filling it, such as the level of training, experience and responsibility.

In principle, the employer must also inform candidates of the place where the duties are to be performed. This obligation does not apply when the place of work cannot be determined, either because it is not yet known at the time of issuing the vacancy notice - in particular in cases where a recruitment reserve is being built up

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1/ Articles 1 to 6 of this Convention have been made mandatory by the Royal Ordinance of 11 June 1984 (Moniteur Belge 28-7).

or because the duties concerned are not performed in a particular place (for example, in the case of travelling agents).

In addition, the candidate must also be able to form an opinion regarding the enterprise in which the job is offered (activity of the enterprise).

It is also important for candidates to know whether the employer intends to create a recruitment reserve. In that case, the employer must include in the vancancy notice indications to enable candidates to realize that a recruitment reserve is involved.

Lastly, candidates must also be informed of the mode of application.

Article 9. All candidates fulfilling the requirements for the job advertised in the vacancy notice but whose applications have not been accepted, must be informed by the employer within a reasonable period and in writing of the decision taken with regard to them.

Commentary

It is very important for a candidate who applies for a specific post and who fulfils the requirements for the job to known whether his application has been accepted. In the affirmative, the employer will ask him to report; otherwise, the candidate must be informed within a reasonable period of time.

2. Equality of treatment

Article 10. In recruiting, the employer must not treat candidates in a discriminatory manner.

Commentary

Throughout the procedure, the employer must treat all candidates in the same manner. He must not make any distinction on the basis of personal factors which have no connection with the job or the nature of the enterprise, except where legal provisions authorize him or compel to do so. Thus, the employer may not in principle make any distinction on the basis of age, sex, marital status, medical history, nationality, political or philosophical beliefs or affiliation to a trade union or other organization.

In this field, it must be recalled that the provisions of the law of 4 August 1978 governing equality of treatment between men and women are applicable.

3. Respect of privacy

Article 11. The privacy of candidates must be respected during the selection procedure. This implies that questions relating to their private life are justified only if they are relevant because of the nature of the job and the conditions under which it is performed.

Commentary

The private life of candidates must be respected. This applies not only to the employer but also to those persons - such as psychologists and physicians - who participate, on the employer's behalf, in the selection activities.

4. Confidentiality of data

Article 12. All the information relating to candidates must be treated as confidential by the employer.

5. Duties of candidates

Article 13. Candidates have a duty to co-operate in good faith in the selection procedure and to supply all the necessary data on their past professional activities and studies, when these are relevant to the nature of the job and the conditions in which it is fulfilled.

Commentary

Every candidate must supply all the necessary data regarding his past professional activities and his studies when these are relevant to the nature of the job and the conditions in which it is fulfilled.

The fact that a candidate is overqualified for the post does not constitute grounds for rejecting him.

Article 14. Candidates must abstain from revealing confidential data which may have become known to them on the occasion of the recruitment and selection procedure.

6. Duration of the selection procedure.

Article 15. The selection procedure must be completed within a reasonable period of time.

Commentary

The employer must ensure that the publication of the vacancy notice and the decision to employ, where appropriate, are not separated by an unduly long period of time without any valid reason. Each of the various phases of the procedure must itself be completed within a reasonable period of time.

7. Work on probation

Article 16. If the selection procedure includes productive work to be performed as a practical test, such work may not last any longer than is necessary to test the aptitudes of the candidate.

8. Travelling expenses

Article 17. The employer shall organize the selection procedure in such manner that travel by candidates is as limited as possible.

Commentary

Candidates cannot be required to make too many trips. This is why efforts must be made, when organizing the selection procedure, to group as far as possible the various test, trials, examinations and interviews.

9. Offers of employment for advertising purposes

Article 18. The offer of fictious posts for advertising purposes is prohibited.

Commentary

When a vacancy is published, it must be established that a post is really vacant. It is totally inadmissible for posts to be offered solely for the purpose of advertising the enterprise.

CHAPTER V - DURATION, REVISION AND TERMINATION

Article 19. The present contract has been concluded for an unlimited duration.

It may be revised or terminated at the behest of the party requesting it first, provided a six months' notice is observed.

The organization initiating the revision or termination must indicate the grounds on which it is based and submit the proposed amendments; the other organizations undertake to examine them within the National Council for Labour within a period of one month of receiving them. 1/

1/ This article has been made mandatory by the Royal Ordinance of 11 June 1984 (Moniteur Belge 28-7).